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LEGISLATIVE HISTORY
Public Law 91-597
H.R. 19888

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INDEX AND SUMMARY OF H.R. 19888

May 12, 1969 Sen. Dirksen (for Sen. Aiken) introduced S. 2116 which was referred to Senate Agriculture and Forestry Committee. Print of bill as introduced.

Jan.28, 1970 Senate committee reported S.2116 without amendment. S. Rept. 91-639. Print of bill and report.

Feb. 2, 1970 Senate passed S.2116 with amendments.

Feb. 3, 1970 S.2116 referred to House Agriculture Committee. Print of bill as referred.

Dec. 2, 1970 House committee voted to report H.R. 19888.

Dec. 3, 1970 House committee reported H.R. 19888 with amendments. H. Rept. 91-1670. Print of bill and report.

Dec.11, 1970 House passed H.R. 19888 as reported.

Dec.14, 1970 Senate passed H.R. 19888 without amendment. Print of bill as passed Senate.

Dec.29, 1970 Approved: P.L. 91-597

91ST CONGRESS
1ST SESSION

S. 2116

IN THE SENATE OF THE UNITED STATES

MAY 12, 1969

Mr. DIRKSEN (for Mr. AIKEN) introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

A BILL

To provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Egg Products Inspection Act".

LEGISLATIVE FINDING

SEC. 2. Eggs and egg products are an important source of the Nation's total supply of food, and are used in food in various forms. They are consumed throughout the Na-

tion and the major portion thereof moves in interstate or foreign commerce. It is essential, in the public interest, that the health and welfare of consumers be protected by the adoption of measures prescribed herein for assuring that eggs and egg products distributed to them and used in products consumed by them are wholesome, otherwise not adulterated, and properly labeled and packaged. Lack of effective regulation for the handling or disposition of unwholesome, otherwise adulterated, or improperly labeled or packaged egg products and certain qualities of eggs is injurious to the public welfare and destroys markets for wholesome, not adulterated, and properly labeled and packaged eggs and egg products and results in sundry losses to producers and processors, as well as injury to consumers. Unwholesome, otherwise adulterated, or improperly labeled or packaged products can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged products, to the detriment of consumers and the public generally. It is hereby found that all egg products and the qualities of eggs which are regulated under this Act are either in interstate or foreign commerce, or substantially affect such commerce, and that regulation by the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, and cooperation by the States and other jurisdictions, as contemplated by

this Act, are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers.

DECLARATION OF POLICY

SEC. 3. It is hereby declared to be the policy of the Congress to provide for the inspection of certain egg products, restrictions upon the disposition of certain qualities of eggs, and uniformity of standards for eggs, and otherwise regulate the processing and distribution of eggs and egg products as hereinafter prescribed to prevent the movement or sale for human food, of eggs and egg products which are adulterated or misbranded or otherwise in violation of this Act.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) The term "adulterated" applies to any egg or egg product under one or more of the following circumstances—

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2) (A) if it bears or contains any added poisonous or added deleterious substance (other than one which is

(i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

(C) if it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(D) if it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act: *Provided*, That an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the Secretary in official plants;

(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(4) if it has been prepared, packaged, or held under insanitary conditions whereby it may have become

contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(b) The term "capable of use as human food" shall apply to any egg or egg product, unless it is denatured, or otherwise identified, as required by regulations prescribed by the Secretary to deter its use as human food.

(c) The term "commerce" means interstate, foreign, or intrastate commerce.

(d) The term "container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(1) The term "immediate container" means any consumer package; or any other container in which egg products, not consumer packaged, are packed.

(2) The term "shipping container" means any container used in packaging a product packed in an immediate container.

(e) The term "egg handler" means any person who engages in any business in commerce which involves buying or selling any eggs (as a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food.

(f) The term "egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products.

(g) The term "egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

(1) The term "check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(2) The term "clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(3) The term "dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(4) The term "incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(5) The term "inedible" means eggs of the following descriptions: black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(6) The term "leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that

the egg contents are exposed or are exuding or free to exude through the shell.

(7) The term "loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(8) The term "restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(h) The term "Fair Packaging and Labeling Act" means the Act so entitled, approved November 3, 1966 (80 Stat. 1296), and Acts amendatory thereof or supplementary thereto.

(i) The term "Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

(j) The term "inspection" means the application of such inspection methods and techniques as are deemed necessary by the responsible Secretary to carry out the provisions of this Act.

(k) The term "inspector" means:

(1) any employee or official of the United States

Government authorized to inspect eggs or egg products under the authority of this Act; or

(2) any employee or official of the government of any State or local jurisdiction authorized by the Secretary to inspect eggs or egg products under the authority of this Act, under an agreement entered into between the Secretary and the appropriate State or other agency.

(l) The term "misbranded" shall apply to egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the Secretary under section 7 of this Act.

(m) The term "official certificate" means any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person performing official functions under this Act.

(n) The term "official device" means any device prescribed or authorized by the Secretary for use in applying any official mark.

(o) The term "official inspection legend" means any symbol prescribed by regulations of the Secretary showing that egg products were inspected in accordance with this Act.

(p) The term "official mark" means the official inspec-

tion legend or any other symbol prescribed by regulations of the Secretary to identify the status of any article under this Act.

(q) The term "official plant" means any plant, as determined by the Secretary, at which inspection of the processing of egg products is maintained by the Department of Agriculture under the authority of this Act.

(r) The term "official standards" means the standards of quality, grades, and weight classes for eggs, in effect upon the effective date of this Act, or as thereafter amended, under the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 7 U.S.C. 1621 et seq.).

(s) The term "pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful viable micro-organisms by such processes as may be prescribed by regulations of the Secretary.

(t) The term "person" means any individual, partnership, corporation, association, or other business unit.

(u) The terms "pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" shall have the same meaning for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act.

(v) The term "plant" means any place of business where egg products are processed.

(w) The term "processing" means manufacturing egg

products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(x) The term "Secretary" means the Secretary of Agriculture or his delegate.

(y) The term "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia.

(z) The term "United States" means the States.

INSPECTION, REINSPECTION, CONDEMNATION

SEC. 5. (a) For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any egg product which is capable of use as human food and is misbranded or adulterated, the Secretary shall, whenever processing operations are being conducted, cause continuous inspection to be made, in accordance with the regulations promulgated under this Act, of the processing of egg products, in each plant processing egg products for commerce, unless exempted under section 15 of this Act. Without restricting the application of the preceding sentence to other kinds of establishments within its provisions, any food manufacturing establishment, institution, or restaurant which uses any eggs that do not meet the requirements of paragraph (a) (1) of section 15 of this Act in the preparation of any articles for human food shall be deemed to be a

plant processing egg products, with respect to such operations.

(b) The Secretary, at any time, shall cause such retention, segregation, and reinspection as he deems necessary of eggs and egg products capable of use as human food in each official plant.

(c) Eggs and egg products found to be adulterated at official plants shall be condemned and, if no appeal be taken from such determination of condemnation, such articles shall be destroyed for human food purposes under the supervision of an inspector: *Provided*, That articles which may by reprocessing be made not adulterated need not be condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the eggs or egg products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the Secretary determines that the appeal is frivolous. If the determination of condemnation is sustained, the eggs or egg products shall be destroyed for human food purposes under the supervision of an inspector.

(d) The Secretary shall cause such other inspections to be made of the business premises, facilities, inventory, operations, and records of egg handlers, and the records

and inventory of other persons required to keep records under section 11 of this Act, as he deems appropriate to assure that only eggs fit for human food are used for such purpose, and otherwise to assure compliance by egg handlers and other persons with the requirements of section 8 of this Act, except that the Secretary of Health, Education, and Welfare shall cause such inspections to be made as he deems appropriate to assure compliance with such requirements at food manufacturing establishments, institutions, and restaurants, other than plants processing egg products. Representatives of said Secretaries shall be afforded access to all such places of business for purposes of making the inspections provided for in this Act.

SANITATION, FACILITIES, AND PRACTICES.

SEC. 6. (a) Each official plant shall be operated in accordance with such sanitary practices and shall have such premises, facilities, and equipment as are required by regulations promulgated by the Secretary to effectuate the purposes of this Act, including requirements for segregation and disposition of restricted eggs.

(b) The Secretary shall refuse to render inspection to any plant whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

PASTEURIZATION AND LABELING OF EGG PRODUCTS AT OFFICIAL PLANTS

SEC. 7. (a) Egg products inspected at any official plant under the authority of this Act and found to be not adulterated shall be pasteurized before they leave the official plant, except as otherwise permitted by regulations of the Secretary, and shall at the time they leave the official plant, bear in distinctly legible form on their shipping containers or immediate containers, or both, when required by regulations of the Secretary, the official inspection legend and official plant number, of the plant where the products were processed, and such other information as the Secretary may require by regulations to describe the products adequately and to assure that they will not have false or misleading labeling.

(b) No labeling or container shall be used for egg products at official plants if it is false or misleading or has not been approved as required by the regulations of the Secretary. If the Secretary has reason to believe that any labeling or the size or form of any container in use or proposed for use with respect to egg products at any official plant is false or misleading in any particular, he may direct that such use be withheld unless the labeling or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to

use the labeling or container does not accept the determination of the Secretary, such person may request a hearing, but the use of the labeling or container shall, if the Secretary so directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the United States court of appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162, as amended; 7 U.S.C. 194), shall be applicable to appeals taken under this section.

PROHIBITED ACTS

SEC. 8. (a) (1) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in any business in commerce any restricted eggs, capable of use as human food, except as authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(2) No egg handler shall possess with intent to use, or use, any restricted eggs in the preparation of human food for commerce except that such eggs may be so pos-

sessed and used when authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(b) (1) No person shall process any egg products for commerce at any plant except in compliance with the requirements of this Act.

(2) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in commerce any egg products required to be inspected under this Act unless they have been so inspected and are labeled and packaged in accordance with the requirements of section 7 of this Act.

(3) No operator of any official plant shall fail to comply with any requirements of paragraph (a) of section 6 of this Act or the regulations thereunder.

(4) No operator of any official plant shall allow any egg products to be moved from such plant if they are adulterated or misbranded and capable of use as human food.

(c) No person shall violate any provision of section 10, 11, or 17 of this Act.

(d) No person shall—

(1) manufacture, cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark

or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary;

(2) forge or alter any official device, mark, or certificate;

(3) without authorization from the Secretary, use any official device, mark, or certificate, or simulation thereof, or detach, deface, or destroy any official device or mark; or use any labeling or container ordered to be withheld from use under section 7 of this Act after final judicial affirmance of such order or expiration of the time for appeal if no appeal is taken under said section.

(4) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(5) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label, or any eggs or egg products bearing any counterfeit, simulated, forged, or improperly altered official mark;

(6) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary;

(7) knowingly represent that any article has been inspected or exempted, under this Act, when, in fact, it has, respectively, not been so inspected or exempted;

(8) refuse access, at any reasonable time, to any representative of the Secretary of Agriculture or the Secretary of Health, Education, and Welfare, to any plant or other place of business subject to inspection under any provisions of this Act.

(e) No person, while an official or employee of the United States Government or any State or local governmental agency, or thereafter, shall use to his own advantage, or reveal other than to the authorized representatives of the United States Government or any State or other government in their official capacity, or as ordered by a court in a judicial proceeding, any information acquired under the authority of this Act concerning any matter which is entitled to protection as a trade secret.

FEDERAL AND STATE COOPERATION

SEC. 9. The Secretary shall, whenever he determines that it would effectuate the purposes of this Act, cooperate with appropriate State and other governmental agencies, in carrying out any provisions of this Act. In carrying out the provisions of this Act, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any such

agency commissioned by him for such purpose. The Secretary shall reimburse the States and other agencies for the costs incurred by them in such cooperative programs.

EGG PRODUCTS NOT INTENDED FOR HUMAN FOOD

SEC. 10. Inspection shall not be provided under this Act at any plant for the processing of any egg products which are not intended for use as human food, but such articles, prior to their offer for sale or transportation in commerce, shall be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation, in commerce, any eggs or egg products which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary.

RECORD AND RELATED REQUIREMENTS FOR PROCESSORS OF EGGS AND EGG PRODUCTS AND RELATED INDUSTRIES

SEC. 11. For the purpose of enforcing the provisions of this Act and the regulations promulgated thereunder, all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in commerce or holding such articles so received, and all egg handlers, shall maintain such records showing, for such time and in such form and manner, as the Secretary of Agriculture or the Secretary of

Health, Education, and Welfare may prescribe, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of a duly authorized representative of either of said Secretaries, permit him at reasonable times to have access to and to copy all such records.

PENALTIES

SEC. 12. (a) Any person who commits any offense prohibited by section 8 of this Act shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine, but if such violation involves intent to defraud, or any distribution or attempted distribution of any article that is known to be adulterated (except as defined in section 4 (a) (8) of this Act), such person shall be subject to imprisonment for not more than three years or a fine of not more than $10,000, or both. When construing or enforcing the provisions of section 8, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(b) No carrier or warehouseman shall be subject to the

penalties of this Act, other than the penalties for violation of section 11 of this Act or paragraph (c) of this section 12, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier or warehouseman of eggs or egg products owned by another person unless the carrier or warehouseman has knowledge, or is in possession of facts which would cause a reasonable person to believe that such eggs or egg products were not eligible for transportation under, or were otherwise in violation of, this Act, or unless the carrier or warehouseman refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such eggs or egg products and copies of all documents, if there be any, pertaining to the delivery of the eggs or egg products to, or by, such carrier or warehouseman.

(c) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such act. uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his

official duties under this Act shall be punished as provided under sections 1111 and 1114 of title 18, United States Code.

REPORTING OF VIOLATIONS

SEC. 13. Before any violation of this Act is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this Act shall be construed as requiring the Secretary to report for criminal prosecution violations of this Act whenever he believes that the public interest will be adequately served and compliance with the Act obtained by a suitable written notice of warning.

REGULATIONS AND ADMINISTRATION

SEC. 14. The Secretary shall promulgate such rules and regulations as he deems necessary to carry out the purposes or provisions of this Act, and shall be responsible for the administration and enforcement of this Act except as otherwise provided in paragraph (d) of section 5 of this Act.

EXEMPTIONS

SEC. 15. (a) The Secretary may, by regulation and under such conditions and procedures as he may prescribe, exempt from specific provisions of this Act—

(1) the sale, transportation, possession, or use of

eggs which contain no more restricted eggs than are allowed by the tolerances in the official standards of United States consumer grades for shell eggs;

(2) the processing of egg products at any plant where the facilities and operating procedures meet such sanitary standards as may be prescribed by the Secretary, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of United States consumer grades for shell eggs, and the egg products processed at such plant;

(3) the sale of eggs by any poultry producer from his own flocks directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(4) the processing of egg products by any poultry producer from eggs of his own flocks' production for sale of such products directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the egg products so processed when handled in accordance with this paragraph;

(5) the sale of eggs by shell egg packers on his

own premises directly to household consumers for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph; and

(6) for such period of time during the initiation of operations under this Act as the Secretary determines that it is impracticable to provide inspection, the processing of egg products at any class of plants and the egg products processed at such plants.

(b) The Secretary may, by regulation provide other exemptions, whenever he finds that such action will be consistent with effectuating the purposes of this Act.

(c) The Secretary may immediately suspend or terminate any exemption under paragraph (a) (2) or (6) of this section at any time with respect to any person, if the conditions of exemption prescribed by this section or the regulations of the Secretary are not being met. The Secretary may modify or revoke any regulation granting exemption under this Act whenever he deems such action appropriate to effectuate the purposes of this Act.

ENTRY OF MATERIALS INTO OFFICIAL PLANTS

SEC. 16. The Secretary may limit the entry of eggs and egg products and other materials into official plants under such conditions as he may prescribe to assure that allowing

the entry of such articles into such plants will be consistent with the purposes of this Act.

IMPORTS

SEC. 17. (a) No restricted eggs capable of use as human food shall be imported into the United States except as authorized by regulations of the Secretary. No egg products capable of use as human food shall be imported into the United States unless they were processed and are labeled and packaged in accordance with, and otherwise comply with the standards of this Act and regulations issued thereunder applicable to such articles within the United States. All such imported articles shall upon entry into the United States be deemed and treated as domestic articles subject to the other provisions of this Act: *Provided,* That they shall be labeled as required by such regulations for imported articles: *Provided further,* That nothing in this section shall apply to eggs or egg products purchased outside the United States by any individual for consumption by him and members of his household and his nonpaying guests and employees.

(b) The Secretary may prescribe the terms and conditions for the destruction of all such articles which are imported contrary to this section, unless (1) they are exported by the consignee within the time fixed therefor by the Secretary or (2) in the case of articles which are not in compliance solely because of misbranding, such articles are

brought into compliance with this Act under supervision of authorized representatives of the Secretary.

(c) All charges for storage, cartage, and labor with respect to any article which is imported contrary to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter imported under this Act by or for such owner or consignee.

(d) The importation of any article contrary to this section is prohibited.

REFUSAL OF INSPECTION

SEC. 18. The Secretary (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) may refuse to provide or may withdraw inspection service under this Act with respect to any plant if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this Act, because the applicant or recipient or anyone responsibly connected with the applicant or recipient has been convicted in any Federal or State court, within the previous ten years, of (1) any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with trans-

actions in food, or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he is a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock, or employee in a managerial or executive capacity.

The determination and order of the Secretary with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the United States court of appeals for the circuit in which such applicant or recipient has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 204 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 194) shall be applicable to appeals taken under this section.

This section shall not affect in any way other provisions of this Act for refusal of inspection services.

ADMINISTRATIVE DETENTION

SEC. 19. Whenever any eggs or egg products subject to the Act, are found by any authorized representative of the Secretary upon any premises and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of this Act or that they are in any other way in violation of this Act, or whenever any restricted eggs capable of use as human food, are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary, such articles may be detained by such representative for a reasonable period but not to exceed twenty days, pending action under section 20 of this Act or notification of any Federal, State, or other governmental authorities having jurisdiction over such articles and shall not be moved by any person from the place at which they are located when so detained until released by such representative. All official marks may be required by such representative to be removed from such articles before they are released unless it appears to the satisfaction of the Secretary that the articles are eligible to retain such marks.

JUDICIAL SEIZURE PROCEEDINGS

SEC. 20. (a) Any eggs or egg products that are or have been processed, bought, sold, possessed, used, transported, or

offered or received for sale or transportation, in violation of this Act, or in any other way are in violation of this Act; and any restricted eggs, capable of use as human food, in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary; shall be liable to be proceeded against and seized and condemned, at any time, on a complaint in any United States district court or other proper court as provided in section 21 of this Act within the jurisdiction of which the articles are found. If the articles are condemned they shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the articles shall not be sold contrary to the provision of this Act, the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which they are sold: *Provided,* That upon the execution and delivery of a good and sufficient bond conditioned that the articles shall not be sold or otherwise disposed of contrary to the provisions of this Act, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which disposal is made, the court may direct that they be delivered to the owner thereof subject to such supervision by authorized

representatives of the Secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the articles and they are released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant thereof. The proceedings in such cases shall conform, as nearly as may be, to the supplemental rules for certain admiralty and maritime claims, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Act, or other laws.

JURISDICTION

SEC. 21. The United States district courts and the District Court of the Virgin Islands are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act, and shall have jurisdiction in all other cases, arising under this Act, except as provided in section 18 of this Act. All proceedings for the enforcement or to restrain violations of this Act shall be by and in the name of the United States. Subpenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

APPLICABILITY OF OTHER ACTS

SEC. 22. For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Federal Trade Commission Act, as amended (38 Stat. 721–723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraphs (c) through (h) of section 6 and the last paragraph of section 9), and the provisions of subsection 409 (l) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409 (l)), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred by said sections 9 and 10 of the Federal Trade Commission Act, as amended, on the district courts of the United States may be exercised for the purposes of this Act by any court designated in section 21 of this Act.

RELATION TO OTHER AUTHORITIES

SEC. 23. (a) Requirements within the scope of this Act with respect to premises, facilities, and operations of any official plant which are in addition to or different than those

made under this Act may not be imposed by any State or local jurisdiction except that any such jurisdiction may impose recordkeeping and other requirements within the scope of section 11 of this Act, if consistent therewith, with respect to any such plant.

(b) For eggs which have moved or are moving in interstate or foreign commerce, no State or local jurisdiction may (1) require the use of standards of quality, condition, quantity or grade which are in addition to or different than the official standards, or (2) require labeling to show the State or other geographical area of production or origin. Labeling, packaging, or ingredient requirements, in addition to or different than those made under this Act, the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, may not be imposed by an State or local jurisdiction, with respect to egg products processed at any official plant in accordance with the requirements under such Acts. However, any State or local jurisdiction may exercise jurisdiction with respect to eggs and egg products for the purpose of preventing the distribution for human food purposes of any such articles which are outside of such a plant and are in violation of any of said Federal Acts or any State or local law consistent therewith. Otherwise the provisions of this Act shall not invalidate any law or other provisions of any State or other jurisdiction in the absence of a conflict with this Act.

(c) The provisions of this Act shall not affect the applicability of the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act or other Federal laws to eggs, egg products, or other food products or diminish any authority conferred on the Secretary of Health, Education, and Welfare or other Federal officials by such other laws, except that the Secretary of Agriculture shall have exclusive jurisdiction to regulate plants processing egg products and operations thereof as to all matters within the scope of this Act.

(d) The detainer authority conferred on representatives of the Secretary of Agriculture by section 19 of this Act shall also apply to any authorized representative of the Secretary of Health, Education, and Welfare for the purposes of paragraph (d) of section 5 of this Act, with respect to any eggs or egg products that are outside any plant processing egg products.

COST OF INSPECTION

SEC. 24. The cost of inspection rendered under the requirements of this Act, and other costs of administration of this Act, shall be borne by the United States, except that the cost of overtime and holiday work performed in official plants subject to the provisions of this Act at such rates as the Secretary may determine shall be borne by such official plants. Sums received by the Secretary from official

plants under this section shall be available without fiscal year limitation to carry out the purposes of this Act.

APPROPRIATIONS

SEC. 25. Such sums as are necessary to carry out the provisions of this Act are hereby authorized to be appropriated.

SEPARABILITY OF PROVISIONS

SEC. 26. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DAY

SEC. 27. The provisions of this Act with respect to egg products shall take effect six months after enactment. Otherwise, this Act shall take effect eighteen months after enactment.

S. 2116

A BILL

91ST CONGRESS
1ST SESSION

S. 2116

A BILL

To provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act; and for other purposes.

By Mr. AIKEN

MAY 12, 1969
Read twice and referred to the Committee on Agriculture and Forestry

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

For actions of Jan. 28, 1970
91st-2nd; No. 9

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HIGHLIGHTS: Senate committee reported egg products inspection bill and bill to establish international quarantine station. Rep. Findley urged this Department to withdraw opposition to Texas food-aid court order. Rep. Abernethy introduced and discussed cotton bill. House sustained veto of Labor-HEW appropriation bill.

HOUSE

1. APPROPRIATIONS; VETO MESSAGE. Sustained, 226 to 191, the President's veto of H. R. 13111, making appropriations for Labor-HEW for fiscal year 1970. pp. H391-458

2. PERSONNEL. The Civil Service subcommittee approved for full committee action H. R. 13008, amended, the proposed Job Evaluation Policy Act of 1969. p. D36

UNITED STATES DEPARTMENT OF AGRICULTURE
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3. FOOD-AID; HUNGER. Rep. Findley stated this Department "should withdraw its opposition to a court order requiring that Federal food-aid programs for poor families be established immediately in 88 Texas counties." pp. H472-4
Rep. Schwengel praised the American Freedom From Hunger Foundation and the walk for development program. pp. H459-71

4. GRAZING FEES. Rep. Saylor criticized the "grazing fee moratorium decision", stated "It is time the public's voice was heard" and inserted comments on this subject. pp. H474-8

5. COMMITTEE EMPLOYEES. Received list of committee employees showing salaries for the 6-month period from July 1, 1969, to December 31, 1969. pp. H481-90

SENATE

6. EGG INSPECTION. The Agriculture and Forestry Committee reported without amendment S. 2116, to provide for inspection of certain egg products (S. Rept. 91-639). p. S726

7. QUARANTINE STATION. The Agriculture and Forestry Committee reported with amendment S. 2306, to provide for the establishment of an international quarantine station (S. Rept. 91-638). p. S726

8. APPROPRIATIONS; FOREIGN AID. Agreed to the conference report on H. R. 15149, fiscal 1970 appropriations for the foreign aid program. This bill will now be sent to the President. pp. S764-770

9. INFLATION. Sen. Hansen criticized economist Gardner Ackley, remarking that Ackley's criticism of the HEW veto was evidence "that the absence of Democratic Party economists from the Government is having a positively beneficial effect." p. S725

10. CONSERVATION; WILDERNESS: FORESTS. Sen. Yarborough inserted a Southwestern Association of Naturalists resolution endorsing the creation of the Big Thicket National Park. p. S735

11. GRAPES; FARM LABOR. Sen. Kennedy inserted an article which records the success of the United Farm Workers organization in securing union benefits for farmworkers in the grape-growing areas. pp. S736-8

12. VETO MESSAGE; APPROPRIATIONS. Sen. Hartke criticized the Labor-HEW veto message, arguing that "Congress, by reducing President Nixon's spending requests by $5.6 billion and by redistributing some of this spending to domestic needs, demonstrated its commitment to reordering our national priorities and to fighting inflation." p. S739

13. ENVIRONMENT. Sen. Murphy inserted Interior Asst. Secretary Smith's address which offers the view that "Nature is never static nor is a totally natural environment always the most suitable for civilization. Our Challenge is to maintain the delicate balance between man and nature...and shape our environment in such a manner as to leave a better quality of living to future generations." pp. S752-3

EXTENSION OF REMARKS

14. ENVIRONMENT. Sen. Church stated that one of the greatest problems which we are currently facing is that of cleaning up our environment. pp. E424-5

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Calendar No. 630

91st Congress, 2d Session | SENATE | Report No. 91-639

EGG PRODUCTS INSPECTION ACT

JANUARY 28, 1970.—Ordered to be printed

Mr. AIKEN, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany S. 2116]

The Committee on Agriculture and Forestry, to which was referred the bill (S. 2116) to provide for the inspection of certain egg products by the U.S. Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this act, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

SHORT EXPLANATION

This bill prohibits the distribution of unwholesome shell eggs or their use in food products, and provides for mandatory continuous inspection of egg product processing plants.

It is applicable to intrastate as well as interstate and foreign commerce.

It provides for exemptions, identification of the egg products not intended for human food, recordkeeping, and Federal-State cooperation. States would be prohibited from imposing requirements conflicting with the bill, or certain other Federal laws. Imports would have to meet the same requirements as domestic products.

The cost of inspection, except for overtime and holiday work in official plants, would be borne by the United States. At present about 75 percent of the egg products are produced in plants operating under an USDA voluntary inspection program on a user-fee basis. The cost to USDA to carry out the bill would be about $5 million annually.

COMMITTEE DELIBERATION

S. 2116 was introduced on May 12, 1969. Hearings were held on the bill on November 14, 1969. All wishing to testify were provided the opportunity. During the course of the hearings no opposition was voiced against the bill, although several amendments were proposed.

At its executive meeting on the bill, Wednesday, January 21, 1970, the committee considered all amendments. All amendments were opposed by the Department of Agriculture. The committee therefore ordered the bill reported without amendment.

GENERAL DESCRIPTION OF THE BILL

Clean and sound shell eggs are not a public health problem. However, eggs classified as leakers, checks, dirties, inedible, loss, and incubator rejects can constitute a health hazard. Such eggs are frequently carriers of *Salmonellae* and other bacteria. Salmonellosis is one of the major food-borne illnesses affecting man. The source of contamination following a number of the salmonellosis outbreaks has been traced to dirty, cracked, and checked eggs.

Only clean and sound shell eggs should be sold to household consumers (70 percent of production); used by restaurants and other institutions (14 percent of production); or used by bakeries and other food manufacturers (2 percent of production). All dirty, cracked, and other poor quality eggs should be utilized only in egg products plants (8 percent of production) where they can receive special handling; where the product can be pasteurized; and where unfit eggs can be segregated and destroyed. (The remaining 6 percent of production is used for hatching eggs.)

This type of legislation is needed for the adequate protection of consumers. Lack of legislation for effective regulation of handling and disposition of poor quality eggs and for inspection of egg products to prevent adulteration or misbranding is injurious to the public welfare.

Therefore, in order to accomplish these objectives, the bill would with respect to—

I. *Shell eggs.*—

A. Prohibit producers, shell egg plant operators and other persons from selling or offering for sale or otherwise distributing in interstate, foreign or intrastate commerce any restricted eggs (i.e., dirty, check, leaker, incubator reject, loss, or inedible), capable of use as human food, except as authorized by regulations of the Secretary of Agriculture, e.g., for shipment of dirties or checks to official USDA egg products processing plants, or as exempted by the Secretary (see III, below); and

Prohibit persons engaged in any business involving buying or selling eggs or processing egg products or otherwise using eggs in preparing human food products, from using or possessing with intent to use, any restricted eggs in the preparation of human food except as authorized by regulations of the Secretary, or as exempted by the Secretary. (See III, below.)

B. USDA would administer the provisions for shell eggs, on a periodic check basis, in cooperation with States (shell egg law enforcement personnel) and reimburse the States fully for their

assistance; except that FDA would have the responsibility of enforcing these provisions at food manufacturing plants, institutions, and restaurants which process egg products only incidental to preparation of other articles of human food and use only lots of eggs meeting consumer grades.

C. Shell eggs would continue to be subject to the packaging and labeling requirements of the Fair Packaging and Labeling Act and the Federal Food,Drug, and Cosmetic Act. (No additional requirements for packaging or labeling are made by the bill but see IX below.)

II. *Egg products.*—

A. The bill would generally require plants processing egg products for interstate, foreign, or intrastate commerce to operate under continuous inspection of USDA, except those exempted by the Secretary of Agriculture. (See III below.)

However, bakeries, other food manufacturers, institutions, and restaurants which process egg products only incidental to the preparation of other articles of human food would not be required to have continuous inspection if they use only lots of eggs meeting consumer grades. FDA would be responsible for enforcement of the requirements of the bill at such establishments.

B. The USDA inspected egg products would have to comply with the provisions of the bill concerning adulteration, pasteurization, and the labeling and packaging requirements to be prescribed by regulations under the bill.

C. USDA would administer the egg products inspection provisions on a continuous inspection basis and would cooperate with States in administering such provisions and fully reimburse the States for their assistance, as provided in the bill.

III. *Exemptions.*—

A. The Secretary of Agriculture would be authorized to exempt: Egg products processing at plants where the facilities and operating procedures meet sanitary standards as may be prescribed by the Secretary, and where the eggs received or used by such plants meet the U.S. consumer grades for shell eggs. USDA would administer on a periodic check basis. Plants meeting exemption requirements would be subject to applicable local, State, and other Federal laws.

B. Sale of eggs, and processing and sale of egg products, by poultry producers from their own flocks, and the sale of eggs by a shell egg packer on his own premises, directly to household consumers for use by such consumers or members of their households or their nonpaying guests or employees.

C. Sale of lots of eggs which do not contain more restricted eggs than allowed by the tolerance for undergrade eggs specified in the official standards of U.S. consumer grades for shell eggs.

D. Egg products processing operations (temporarily) when it is impracticable to inspect them.

IV. *Products not for human food.*—The bill would treat eggs and egg products as capable of use as human food unless denatured or otherwise identified as required by regulations of the Secretary of

Agriculture and prohibit distribution of eggs and egg products not intended for human food unless they are identified as required by such regulations.

V. *Records.*—The bill would require persons buying or selling eggs or processing egg products or using eggs in preparation of other human food products (as a business) and other specified groups to maintain records concerning the receipt, delivery, sale, movement and distribution of eggs and egg products handled by them and would authorize representatives of the Secretary of Agriculture or the Secretary of Health, Education, and Welfare to examine the records.

VI. *Federal-State cooperation.*—USDA would be authorized to cooperate with States and other governmental agencies in administering this bill and reimburse them fully for such assistance.

VII. *Imports.*—Eggs and egg products imported into the United States would have to meet the same requirements as domestic products under the bill.

VIII. *Enforcement.*—

A. Continuous inspection service would be provided in all official egg products plants.

B. All egg handlers, including shell egg plants, hatcheries, and exempted egg products plants would be under surveillance inspection by Federal or State employees.

C. Restaurants and food manufacturing establishments generally would be under surveillance inspection of the Food and Drug Administration.

D. The Secretary of Agriculture would be authorized to suspend or terminate exemptions.

E. Authority would be provided for administrative detention and judicial seizure of eggs and egg products that are in violation of the act, including restricted eggs in the possession of unauthorized persons, when found on any premises.

F. Criminal penalties are provided for violations.

IX. *General.*—

A. The Secretary of Agriculture would have exclusive jurisdiction to regulate plants processing egg products, with respect to matters within the scope of the bill, otherwise the bill would not affect the applicability of the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act to eggs or egg products or other foods.

B. No State or local jurisdiction could impose labeling, packaging, or ingredient requirements for officially inspected egg products which are in addition to or different than those imposed under the bill, the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act.

C. No State or local jurisdiction could require the use of standards of quality, condition, quantity, or grade, which are in addition to or different than the Federal standards, or require labeling to show the State or other geographical area of production or origin, for shell eggs which are moving or have moved in interstate or foreign commerce.

ANALYSIS OF S. 2116—EGG PRODUCTS INSPECTION ACT

Section 1

Cites this act as the "Egg Products Inspection Act."

Section 2. Legislative finding

States that eggs and egg products are an important source of Nation's food supply; that it is in the interest of consumers and producers that eggs and egg products be wholesome, not adulterated, and properly labeled and packaged. Finds that all egg products and qualities of eggs regulated under this act are either in interstate or foreign commerce or affect such commerce and that regulations are necessary to prevent and eliminate burdens upon commerce and to protect the health and welfare of consumers.

Section 3. Declaration of policy

Declares that it is the policy of Congress to provide the necessary inspection to prevent the movement or sale for human food of eggs and egg products which are adulterated or misbranded; also provides for uniformity of standards for eggs.

Section 4. Definitions

(a) *Adulterated.*—Defines this term as any egg or egg product which contains any poisonous or deleterious substance injurious to health, including pesticides, chemicals, and food and color additives except what is allowed under Federal Food, Drug, and Cosmetic Act; or which consists of any filthy, putrid, or decomposed substance or is handled under insanitary conditions; or has been subjected to incubation; or is in a container which is composed of a dangerous substance; or has been intentionally subjected to radiation except under approved conditions; or has any valuable constituent removed or substance added to increase its bulk or make it appear of greater value.

(b) *Capable of use as human food.*—Defines as any egg or egg product unless denatured or otherwise identified to deter its use as human food.

(c) *Commerce.*—Defines as interstate, foreign, or intrastate commerce.

(d) *Container or package.*—Defines as any type of receptacle or cover.

(1) *Immediate container.*—Defines as a consumer package or any type of container not a consumer package.

(2) *Shipping container.*—Receptacle containing an immediate container.

(e) *Egg handler.*—Defines as any person engaged in the business of buying or selling eggs or processing egg products or using eggs in preparation of human food.

(f) *Egg product.*—Defines as dried, frozen, or liquid eggs with or without added ingredients. Does not mean product which contains eggs in relatively small proportions (custards) or product which contains eggs but are not considered to be egg products (cakes).

(g) *Egg.*—Defines as the shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

(1) "*Check*" is an egg with a broken or cracked shell but shell membrane is intact and contents are not leaking.

(2) "*Clean and sound shell egg*" is an egg which is not checked and the shell is free of adhering dirt.

(3) "*Dirty egg*" has adhering dirt or foreign material on the shell and the shell is unbroken.

(4) "*Incubator reject*" is an egg that has been subjected to incubation but has not hatched.

(5) "*Inedible*" is an egg which is rotten or sour or otherwise unfit for human food.

(6) "*Leaker*" is an egg that has a crack in the shell and the shell membrane to the extent that the contents are leaking through the shell.

(7) "*Loss*" is a smashed or broken or overheated or frozen or contaminated egg or incubator reject or contains a bloody white or a large meat or blood spot.

(8) "*Restricted egg*" is a dirty, check, incubator reject, inedible, leaker, or loss. This category contains all eggs which pose a health hazard.

(h) This definition cites the "Fair Packaging and Labeling Act." The act is administered by the Department of Health, Education, and Welfare.

(i) This definition cites the "Federal Food, Drug, and Cosmetic Act." This act is administered by the Department of Health, Education, and Welfare.

(j) *Inspection.*—Defines as the application of such inspection methods and techniques necessary to carry out provisions of the act.

(k) *Inspector.*—

(1) Federal employee authorized to inspect eggs or egg products.

(2) State or local government employee authorized by the Secretary to inspect eggs and egg products.

(l) *Misbranded.*—Defines as an egg product not properly labeled and packaged.

(m) *Official certificate.*—Defines as any certificate issued by an inspector.

(n) *Official device.*—Defines as any device authorized for use in applying the official mark.

(o) *Official inspection legend.*—Defines as a symbol showing that egg products were inspected in accordance with the act.

(p) *Official mark.*—Defines as an official legend or symbol identifying the status of a product.

(q) *Official plant.*—Defines as a plant processing egg products under continuous inspection.

(r) *Official standard.*—Defines as the standards for quality, grade, and weight as specified by regulations issued under authority of the Agricultural Marketing Act of 1946.

(s) *Pasteurize.*—Defines as the subjecting of egg products to heat or possible chemical treatment to destroy harmful viable micro-organism.

(t) *Person.*—Defines as any individual, partnership, corporation, association, or other business unit.

(u) *Pesticide chemical, food additive, color additive, and raw agricultural commodity.*—Defines as having the same meaning as under the Federal Food, Drug, and Cosmetic Act.

(v) *Plant.*—Defines as a place of business where egg products are processed.

(w) *Processing.*—Defines as manufacturing egg products including all processing steps necessary for such an operation.

(x) *Secretary.*—Defines as the Secretary of Agriculture or his delegate.

(y) *State.*—Defines as any State of the United States, Puerto Rico, Virgin Islands, and District of Columbia.

(z) *United States.*—Defines as meaning the States.

Section 5. Inspection, reinspection, condemnation

(a) Requires the Secretary of Agriculture to conduct continuous inspection operations in all plants processing egg products unless exempted by the act.

(b) Authorizes the Secretary at any time to retain, segregate, and reinspect eggs and egg products in official plants.

(c) Requires adulterated eggs and egg products to be condemned at the official plant; provides that appeals can be made and provides for the reprocessing of products when such reprocessing will render the article wholesome and not adulterated.

(d) Authorizes Secretary of Agriculture to inspect premises, facilities, inventory, operations, and records of egg handlers to assure compliance with Act and authorizes Secretary of Health, Education, and Welfare to do the same with respect to food manufacturing establishments, institutions, and restaurants.

Section 6. Sanitation, facilities, and practices

(a) Requires each official plant to have such sanitary practices, premises, facilities, and equipment as required by regulations.

(b) Authorizes Secretary to refuse to render inspection to plants failing to meet the requirements of the regulations.

Section 7. Pasteurization and labeling of egg products at official plants

(a) Requires egg products to be pasteurized before leaving an official plant unless otherwise permitted by regulations (such as to go from one official plant to another for pasteurizing) and to be properly labeled with official inspection legend and plant number and such other information deemed necessary to prevent false or misleading labeling.

(b) Provides that no labeling or container for egg products shall be used if it is false or misleading and has not been approved. Allows for person proposing to use a rejected label or container to appeal.

Section 8. Prohibited acts

(a) (1) Prohibits any person from buying, selling, or transporting or offering to buy, sell, or receive for transportation in commerce any restricted eggs capable of use as human food except as authorized by regulations (such as to move from one handler to another). Some questions have been raised on the desirability of authorizing the Secretary to issue the regulations under which "restricted" eggs could be sold, shipped, or received.

There are many different kinds of operations and arrangements in collecting, handling, sorting, packaging, and shipping eggs. Producers and other primary handlers will need to be authorized to sell or ship nest-run or "restricted" eggs in order to move them to a point where they can be sorted or graded. Shell egg grading plants will need to be

prohibited from selling or shipping "restricted" eggs except under closely regulated conditions. For example, incubator rejects, leakers, and inedible eggs should either be destroyed or, under adequate identification and control, be used only for a nonfood purpose. As another example, checks or dirty eggs may be permitted to move to official egg products plants, where under Government supervision they could be washed or sanitized prior to use.

It was concluded, therefore, that it would not be feasible or practicable to attempt to spell out in the statute the requirements or conditions governing the handling or movement of restricted eggs and that the Secretary should be authorized to do so by regulation.

(a) (2) Prohibits egg handlers from possessing with intent to use or using any restricted eggs in the preparation of human food for commerce unless otherwise authorized.

(b) (1) Prohibits plants from processing egg products except in compliance with the act.

(b) (2) Prohibits any person from buying, selling, or transporting or offering to buy, sell, or receive for transportation in commerce any egg products which have not been inspected and labeled in accordance with the act.

(b) (3) Prohibits any official egg products plant from operating unless facilities are approved and sanitary practices are maintained.

(b) (4) Prohibits egg products from moving from an official plant if they are adulterated or misbranded.

(c) Prohibits persons from selling or transporting egg products not intended for human food unless denatured or properly identified and prohibits persons from buying, selling, or transporting eggs or egg products not intended for human food unless denatured or properly identified. Makes it a prohibition for any person in the business of handling or using eggs or egg products to fail to keep adequate records. Also makes it a prohibition to import eggs except as prescribed by the act.

(d) (1) Prohibits the making of any official mark or official certificate except as authorized by the Secretary.

(d) (2) Prohibits the altering of any official mark or certificate.

(d) (3) Prohibits the use of any official mark, certificate, or label or the destruction of any official mark unless authorized by the Secretary.

(d) (4) Prohibits the failure to use or destroy any official mark or certificate contrary to the regulations.

(d) (5) Prohibits knowingly possessing any official device or simulated official device or any eggs or egg products bearing simulated or altered official mark without notifying the Secretary.

(d) (6) Prohibits knowingly falsifying any certificate provided for in the regulations.

(d) (7) Prohibits knowingly representing that a product has been inspected or exempted when it has not been inspected or exempted.

(d) (8) Prohibits the refusal of entry at any reasonable time to any plant or place of business subject to inspection by representatives of the Secretary of Agriculture and Secretary of Health, Education, and Welfare.

(e) Prohibits local, State, or Federal Government employees from revealing trade secrets.

Section 9. Federal and State cooperation

Allows the Secretary to use appropriate State and other governmental agencies in carrying out the provisions of the act and requires the Secretary to reimburse the States and other agencies for the cost incurred in carrying out such activities.

Section 10. Egg products not intended for human food

States that inspection is not required in plants processing egg products not intended for human food (such as for dog food) and requires such noninspected products to be denatured or otherwise identified prior to offer to sell or transport. Requires eggs and egg products not intended for use as human food to be denatured or otherwise identified before being bought, sold, or transported in commerce.

Section 11. Record and related requirements for processors of eggs and egg products and related industries

Requires persons engaged in the business of handling eggs and egg products to keep certain records so the Secretary of Agriculture and the Secretary of Health, Education, and Welfare can adequately enforce the provisions of the act. Also requires such persons to give access to representatives of Secretaries to such records.

Section 12. Penalties

(a) Provides for a penalty of imprisonment for not more than 1 year or a fine of not more than $1,000 or both upon conviction of any offense prohibited by section 8 of act. If violation involves intent to defraud or knowingly distributing adulterated product, the penalty may be an imprisonment of not more than 3 years or a fine of not more than $10,000 or both.

(b) Provides that no carrier or warehouseman shall be subject to the penalties of the act except for violation of the recordkeeping requirements and for interfering with an inspector in the performance of his official duties except when the carrier or warehouseman knowingly transports or stores eggs or egg products not eligible for transportation or possession.

(c) Provides that anyone who assaults or otherwise interferes with an inspector in the performance of his duties may be fined not more than $5,000 or imprisoned for not more than 3 years or both. If such a person uses a deadly or dangerous weapon in interfering with an inspector, he shall be fined not more than $10,000 or imprisoned for not more than 10 years or both. If a person kills an inspector when engaged in official duties, he shall be punished under title 18, United States Code.

Section 13. Reporting of violations

Requires the Secretary to give reasonable notice and opportunity to present views to any person violating the act before violation is reported to any U.S. attorney for institution of a criminal proceeding. Allows the Secretary to send a suitable written notice of warning in lieu of criminal prosecution whenever he believes it appropriate.

Section 14. Regulations and administration

Gives the Secretary of Agriculture authority to publish rules and regulations necessary to carry out the act and places the responsibility for administration of the act on the Secretary of Agriculture except

for that portion where the Secretary of Health, Education, and Welfare is responsible (food manufacturer, institutions, and restaurants).

Section 15. Exemptions

(a) Authorizes Secretary to exempt by regulations certain persons, operations, or products from specific provisions of the act.

(1) Exempts those restricted eggs allowed by tolerances in the official consumer grade standards. For example, an egg may become cracked during transportation and the standards provide a tolerance for such unavoidable occurrences.

(2) Exempts those plants which break only consumer-grade eggs and which have approved facility and operating procedures. The main purpose for continuous inspection is to assure proper disposition of restricted eggs used in breaking plants. Restricted eggs would not be allowed in exempted egg products plants.

(3) Exempts sale of eggs by producers from their own flocks directly to household consumer.

(4) Exempts processing and sale of egg products by producers from their own flocks directly to household consumers.

(5) Exempts sale of eggs by packers on their premises directly to household consumers.

(6) Authorizes Secretary to exempt plants during initiation of operations under this act when it is impracticable to provide inspection.

(b) Authorizes the Secretary to exempt other plants or operations whenever he finds it will effectuate the purposes of the act. This gives the Secretary authority and flexibility necessary to carry out objectives of act and meet any unforseeable conditions which would cause undue hardships or burdens.

(c) Authorizes the Secretary to revoke any exemption when he finds it necessary to effectuate the purposes of the act.

Section 16. Entry of materials into official plants

Authorizes the Secretary to limit the entry of eggs and egg products and other materials into official plants under such conditions as he may prescribe.

Section 17. Imports

(a) Prevents importation of restricted eggs into United States except as authorized by the Secretary. The Secretary could authorize such eggs to be imported provided they go to official plants for proper disposition. This is the same as for restricted eggs moving in domestic channels. Provides that egg products can be imported into this country only if they have been inspected and labeled in accordance with standards and regulations of this act. These import requirements are similar to those contained in the Wholesome Meat Act and Wholesome Poultry Products Act.

(b) Authorizes the Secretary to destroy products imported which do not meet the requirements of the act unless they are exported by the consignee within a specified time. Provides that misbranded imports can be brought into compliance by appropriately correcting the cause.

(c) Requires owner or consignee to pay charges for storage, cartage, and labor on imported products which do not meet requirements of act.

(d) Makes it a prohibition to import products in violation of the import section.

Section 18. Refusal of inspection

Authorizes the Secretary to refuse to provide or to withdraw service, after appropriate notice and hearing, to anyone convicted within the previous 10 years of any felony or more than one misdemeanor under a law concerning marketing of adulterated or mislabeled food or any felony involving an offense indicating a lack of integrity needed for the conduct of operations affecting the public health. This section also provides for judicial review of such action.

Section 19. Administrative detention

Authorizes the Secretary to detain for a period up to 20 days at any location any eggs and egg products subject to the act which are or may be in conflict with the act and prevent such products from being moved during such detention.

Section 20. Judicial seizure proceedings

(a) Authorizes the seizure and condemnation of products in violation of the act upon issuance of a complaint in the appropriate court having jurisdiction. Provides for the proper disposition and handling of seized products.

(b) States that this section shall not derogate from authority for seizure and condemnation conferred by other sections of this act or other laws.

Section 21. Jurisdiction

Gives specified courts jurisdiction of actions to enjoin violations of the act and certain other cases under the act.

Section 22. Applicability of other acts

Incorporates by reference provisions (including penalties) of the Federal Trade Commission Act and the Communications Act of 1934, as amended, authorizing requirement of reports, authorizing administrative subpenas, and conferring other investigative and hearing powers.

Section 23. Relation to other authorities

(a) Prohibits State or local governments, except for imposing recordkeeping requirements within the scope of section 11 of this act, from imposing additional or different requirements than those issued under this act pertaining to premises, facilities, and operations at official plants.

(b) Prohibits State and local governments from imposing standards of quality, condition, quantity, or grade and labeling and packaging requirements which are different from those of the official standards, this act, the Federal Food, Drug, and Cosmetic Act, and the Fair Packaging and Labeling Act for eggs and egg products which have moved or are moving in interstate or foreign commerce. This is for the purpose of preventing dual standards and requirements which are unnecessary, interfere with orderly marketing, and increase cost to consumers. This section also prohibits a State or local jurisdiction from requiring labeling showing State or other geographical area of production or origin. Such requirements serve no useful purpose and

tend to establish trade barriers which adversely affect orderly marketing and increase marketing cost. The source of eggs is of no value insofar as determining quality is concerned. If a State is concerned about the quality of eggs from another State, this can be determined adequately by egg law officials conducting a check grade on the eggs. If a State wishes to promote its own eggs or inform consumers as to the source of supply of their eggs, it can adopt either on a mandatory or voluntary basis a regulation providing that eggs produced and sold within that State may be labeled as such. This section does not prohibit this.

(c) States that this act does not affect the applicability of the Federal Food, Drug, and Cosmetic Act or Fair Packaging and Labeling Act or other Federal laws relating to eggs and egg products and does not diminish authority conferred on the Secretary of Health, Education, and Welfare, except that the Secretary of Agriculture has exclusive jurisdiction to regulate plants processing egg products. This exclusion jurisdiction portion is for the purpose of eliminating dual or duplicate inspection responsibilities in egg processing plants.

(d) Grants the Secretary of Health, Education, and Welfare detention authority for products at restaurants, institutions, and food manufacturing establishments just as is granted Secretary of Agriculture under section 19 of act.

Section 24. Cost of inspection

Specifies that cost of inspection under this act shall be borne by the United States, except for the cost of overtime and holiday work.

Section 25. Appropriations

Authorizes necessary appropriations to carry out provisions of this act.

Section 26. Separability of provisions

Contains the usual saving provision to apply in case of partial invalidity of the bill.

Section 27. Effective day

Makes the act effective 18 months after enactment except for egg products, which becomes effective 6 months after enactment.

DEPARTMENTAL VIEWS

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, November 13, 1969.

HON. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in reply to your request of May 14, 1969, for a report on S. 2116, a bill to provide for the inspection of certain egg products by the U.S. Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this act, and for other purposes.

This Department recommends that the bill be passed.

This type of legislation is needed for the adequate protection of consumers. Lack of legislation for effective regulation of handling and disposition of poor quality eggs and for inspection of egg products to prevent adulteration or misbranding is injurious to the public welfare.

Clean and sound shell eggs are not a public health problem. However, eggs classified as leakers, checks, dirties, inedible, loss, and incubator rejects can constitute a health hazard. Such eggs are frequently carriers of Salmonellae and other bacteria. Salmonellosis is one of the major food-borne illnesses affecting man. The source of contamination following a number of the salmonellosis outbreaks has been traced to dirty, cracked, and checked eggs.

Only clean and sound shell eggs should be sold to household consumers (70 percent of production); used by restaurants and other institutions (14 percent of production); or used by bakeries and other food manufacturers (2 percent of production). All dirty, cracked, and other poor quality eggs should be utilized only in egg products plants (8 percent of production) where they can receive special handling; where the product can be pasteurized; and where unfit eggs can be segregated and destroyed. (The remaining 6 percent of production is used for hatching eggs.)

Therefore, in order to accomplish these objectives, the bill would—

(1) Prohibit any person from buying, selling, or transporting, or offering to buy or sell, or offering or receiving for transportation, in any business in interstate, foreign, or intrastate commerce any restricted eggs (i.e., dirties, checks, leakers, incubator rejects, inedible, and loss eggs), except as authorized by the Secretary;

(2) Prohibit any food manufacturer from using restricted eggs in the preparation of human food, except as authorized by the Secretary;

(3) Provide for continuous Federal inspection for any plant processing egg products, except that an exemption would be provided for the processing of egg products at any plant where the eggs used in the manufacture of egg products meet at least the requirements of the official standards of the U.S. consumer grades for shell eggs;

(4) Direct the Secretary, whenever he determines that it would effectuate the purposes of the bill, to cooperate with appropriate State and other governmental agencies in carrying out any of its provisions and reimburse the States and other agencies for the costs incurred by them in such cooperative programs; and

(5) Prohibit the importation of restricted eggs, except as authorized by regulations of the Secretary and require imported egg products to be processed, labeled, and packaged in accordance with the same requirements as would apply to domestic products.

The bill would give the Secretary of Agriculture exclusive jurisdiction over egg products processing plants with respect to matters within the scope of the act, but otherwise preserve the authority of the Secretary of Health, Education, and Welfare under the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act or other Federal officials by such other laws with respect to eggs and egg products. The bill would vest responsibility in the Secretary of Agri-

culture to enforce the restrictions on distribution or use of poor quality shell eggs by egg handlers, except that the Secretary of Health, Education, and Welfare would have such responsibility at restaurants, institutions, and food-manufacturing plants other than egg products processing plants.

Presently, the programs for the inspection of eggs and egg products consist of those enforced in States which have mandatory or permissive inspection programs, the voluntary USDA egg and egg products grading and inspection programs as authorized under the Agricultural Marketing Act of 1946, and the regulatory inspections of plants and products as authorized by the Federal Food, Drug, and Cosmetic Act.

Approximately 75 percent of the egg products are produced in plants operating under the U.S. Department of Agriculture's voluntary inspection program on a user-fee basis. The USDA regulations require all establishments using this service to (1) have approved premises, facilities, labeling, and identification of product; (2) operate in accordance with approved sanitary practices and operating procedures; (3) segregate and use only specific types of shell eggs for breaking stock; (4) process in accordance with specific processing and temperature requirements for cooling, freezing, and drying egg products; (5) pasteurize or heat-treat all egg products; and (6) have continuous inspection during processing by a Federal or Federal-State inspector. The regulations also provide for final examination of finished egg products by an inspector and examination of samples of product for *Salmonellae.*

A questionnaire was sent to States in 1968 to find out the nature and scope of their existing legislative and inspection programs for eggs and egg products.

All States had shell egg regulations. Their major provisions related to grade and labeling requirements for eggs sold at retail outlets. The regulations, in approximately three-fourths of the States, prohibited the sale to consumers of leakers, loss, inedibles, and incubator rejects. About one-half of the States prohibited consumer sales of dirties and "nest run" or uncandled eggs. Twenty-two States prohibited the sale of checks to consumers, except for the tolerances permitted in their grades. In a number of these States, the regulations did not cover the sale of these eggs to institutions, restaurants, and food manufacturers such as bakeries.

Eighteen States had egg products legislation. Twenty-six States had general food-type laws pertaining to all establishments processing or preparing food, including egg products. Five States did not have any type of egg products legislation and one State did not respond. Only eight States required pasteurization and no State required continuous egg products inspection during processing. At present, there is no uniformity among the States of inspection or plant requirements for egg products.

Most States have closely patterned their mandatory requirements for standards, grades, and weight classes for shell eggs after the official USDA standards. A few States, however, including some of the major consuming States, have adopted different requirements. This practice has acted as a barrier to interstate trade and has been of serious concern to producers in other States because they are required to grade under differing sets of standards depending on destination. To

eliminate these burdens, one national standard should be adopted for eggs moving in interstate or foreign commerce. Volmntary efforts to achieve uniformity in these State regulatory standards have had little success. Another barrier that should be eliminated is the mandatory requirement by some States that all eggs or shipped-in eggs be labeled as to State of origin. This bill would prohibit such practices by States but would not, however, impose any restriction on State grades, weight classes, or other standards designed for voluntary use to promote locally produced eggs.

The costs to this Department to carry out the provisions of this bill would be approximately $5 million annually.

Total staffing for this program would require approximately 450 man-years. It is estimated that staffing would consist of approximately 280 man-years for Federal employees and 170 man-years for State employees. The increase in Federal staffing over what is currently used in the voluntary egg products inspection program would be 150 man-years.

Data gathered from the States and the data for plants presently using USDA's egg products inspection service were used as a basis for calculating the staffing and costs. However, the costs could vary dependent upon the number of plans and volume of production.

We believe that the bill is needed in the interest of consumers and would not affect consumer prices of eggs and egg products.

The Bureau of the Budget advises that enactment of this legislation would be consistent with the administration's objectives.

Sincerely,

CLIFFORD M. HARDIN.
Secretary of Agriculture.

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Calendar No. 630

91st CONGRESS
2d Session

S. 2116

[Report No. 91–639]

IN THE SENATE OF THE UNITED STATES

May 12, 1969

Mr. Dirksen (for Mr. Aiken) introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

January 28, 1970

Reported by Mr. Aiken, without amendment

A BILL

To provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Egg Products Inspection Act".

LEGISLATIVE FINDING

Sec. 2. Eggs and egg products are an important source of the Nation's total supply of food, and are used in food in various forms. They are consumed throughout the Na-

tion and the major portion thereof moves in interstate or foreign commerce. It is essential, in the public interest, that the health and welfare of consumers be protected by the adoption of measures prescribed herein for assuring that eggs and egg products distributed to them and used in products consumed by them are wholesome, otherwise not adulterated, and properly labeled and packaged. Lack of effective regulation for the handling or disposition of unwholesome, otherwise adulterated, or improperly labeled or packaged egg products and certain qualities of eggs is injurious to the public welfare and destroys markets for wholesome, not adulterated, and properly labeled and packaged eggs and egg products and results in sundry losses to producers and processors, as well as injury to consumers. Unwholesome, otherwise adulterated, or improperly labeled or packaged products can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged products, to the detriment of consumers and the public generally. It is hereby found that all egg products and the qualities of eggs which are regulated under this Act are either in interstate or foreign commerce, or substantially affect such commerce, and that regulation by the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, and cooperation by the States and other jurisdictions, as contemplated by

this Act, are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers.

DECLARATION OF POLICY

SEC. 3. It is hereby declared to be the policy of the Congress to provide for the inspection of certain egg products, restrictions upon the disposition of certain qualities of eggs, and uniformity of standards for eggs, and otherwise regulate the processing and distribution of eggs and egg products as hereinafter prescribed to prevent the movement or sale for human food, of eggs and egg products which are adulterated or misbranded or otherwise in violation of this Act.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) The term "adulterated" applies to any egg or egg product under one or more of the following circumstances—

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2) (A) if it bears or contains any added poisonous or added deleterious substance (other than one which is

(i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

(C) if it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(D) if it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act: *Provided,* That an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the Secretary in official plants;

(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(4) if it has been prepared, packaged, or held under insanitary conditions whereby it may have become

contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(b) The term "capable of use as human food" shall apply to any egg or egg product, unless it is denatured, or otherwise identified, as required by regulations prescribed by the Secretary to deter its use as human food.

(c) The term "commerce" means interstate, foreign, or intrastate commerce.

(d) The term "container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(1) The term "immediate container" means any consumer package; or any other container in which egg products, not consumer packaged, are packed.

(2) The term "shipping container" means any container used in packaging a product packed in an immediate container.

(e) The term "egg handler" means any person who engages in any business in commerce which involves buying or selling any eggs (as a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food.

(f) The term "egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products.

(g) The term "egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

(1) The term "check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(2) The term "clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(3) The term "dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(4) The term "incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(5) The term "inedible" means eggs of the following descriptions: black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(6) The term "leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that

the egg contents are exposed or are exuding or free to exude through the shell.

(7) The term "loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(8) The term "restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(h) The term "Fair Packaging and Labeling Act" means the Act so entitled, approved November 3, 1966 (80 Stat. 1296), and Acts amendatory thereof or supplementary thereto.

(i) The term "Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

(j) The term "inspection" means the application of such inspection methods and techniques as are deemed necessary by the responsible Secretary to carry out the provisions of this Act.

(k) The term "inspector" means:

(1) any employee or official of the United States

Government authorized to inspect eggs or egg products under the authority of this Act; or

(2) any employee or official of the government of any State or local jurisdiction authorized by the Secretary to inspect eggs or egg products under the authority of this Act, under an agreement entered into between the Secretary and the appropriate State or other agency.

(l) The term "misbranded" shall apply to egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the Secretary under section 7 of this Act.

(m) The term "official certificate" means any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person performing official functions under this Act.

(n) The term "official device" means any device prescribed or authorized by the Secretary for use in applying any official mark.

(o) The term "official inspection legend" means any symbol prescribed by regulations of the Secretary showing that egg products were inspected in accordance with this Act.

(p) The term "official mark" means the official inspec-

tion legend or any other symbol prescribed by regulations of the Secretary to identify the status of any article under this Act.

(q) The term "official plant" means any plant, as determined by the Secretary, at which inspection of the processing of egg products is maintained by the Department of Agriculture under the authority of this Act.

(r) The term "official standards" means the standards of quality, grades, and weight classes for eggs, in effect upon the effective date of this Act, or as thereafter amended, under the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 7 U.S.C. 1621 et seq.).

(s) The term "pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful viable micro-organisms by such processes as may be prescribed by regulations of the Secretary.

(t) The term "person" means any individual, partnership, corporation, association, or other business unit.

(u) The terms "pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" shall have the same meaning for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act.

(v) The term "plant" means any place of business where egg products are processed.

(w) The term "processing" means manufacturing egg

products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(x) The term "Secretary" means the Secretary of Agriculture or his delegate.

(y) The term "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia.

(z) The term "United States" means the States.

INSPECTION, REINSPECTION, CONDEMNATION

SEC. 5. (a) For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any egg product which is capable of use as human food and is misbranded or adulterated, the Secretary shall, whenever processing operations are being conducted, cause continuous inspection to be made, in accordance with the regulations promulgated under this Act, of the processing of egg products, in each plant processing egg products for commerce, unless exempted under section 15 of this Act. Without restricting the application of the preceding sentence to other kinds of establishments within its provisions, any food manufacturing establishment, institution, or restaurant which uses any eggs that do not meet the requirements of paragraph (a) (1) of section 15 of this Act in the preparation of any articles for human food shall be deemed to be a

plant processing egg products, with respect to such operations.

(b) The Secretary, at any time, shall cause such retention, segregation, and reinspection as he deems necessary of eggs and egg products capable of use as human food in each official plant.

(c) Eggs and egg products found to be adulterated at official plants shall be condemned and, if no appeal be taken from such determination of condemnation, such articles shall be destroyed for human food purposes under the supervision of an inspector: *Provided,* That articles which may by reprocessing be made not adulterated need not be condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the eggs or egg products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the Secretary determines that the appeal is frivolous. If the determination of condemnation is sustained, the eggs or egg products shall be destroyed for human food purposes under the supervision of an inspector.

(d) The Secretary shall cause such other inspections to be made of the business premises, facilities, inventory, operations, and records of egg handlers, and the records

and inventory of other persons required to keep records under section 11 of this Act, as he deems appropriate to assure that only eggs fit for human food are used for such purpose, and otherwise to assure compliance by egg handlers and other persons with the requirements of section 8 of this Act, except that the Secretary of Health, Education, and Welfare shall cause such inspections to be made as he deems appropriate to assure compliance with such requirements at food manufacturing establishments, institutions, and restaurants, other than plants processing egg products. Representatives of said Secretaries shall be afforded access to all such places of business for purposes of making the inspections provided for in this Act.

SANITATION, FACILITIES, AND PRACTICES

SEC. 6. (a) Each official plant shall be operated in accordance with such sanitary practices and shall have such premises, facilities, and equipment as are required by regulations promulgated by the Secretary to effectuate the purposes of this Act, including requirements for segregation and disposition of restricted eggs.

(b) The Secretary shall refuse to render inspection to any plant whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

PASTEURIZATION AND LABELING OF EGG PRODUCTS AT OFFICIAL PLANTS

SEC. 7. (a) Egg products inspected at any official plant under the authority of this Act and found to be not adulterated shall be pasteurized before they leave the official plant, except as otherwise permitted by regulations of the Secretary, and shall at the time they leave the official plant, bear in distinctly legible form on their shipping containers or immediate containers, or both, when required by regulations of the Secretary, the official inspection legend and official plant number, of the plant where the products were processed, and such other information as the Secretary may require by regulations to describe the products adequately and to assure that they will not have false or misleading labeling.

(b) No labeling or container shall be used for egg products at official plants if it is false or misleading or has not been approved as required by the regulations of the Secretary. If the Secretary has reason to believe that any labeling or the size or form of any container in use or proposed for use with respect to egg products at any official plant is false or misleading in any particular, he may direct that such use be withheld unless the labeling or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to

use the labeling or container does not accept the determination of the Secretary, such person may request a hearing, but the use of the labeling or container shall, if the Secretary so directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the United States court of appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162, as amended; 7 U.S.C. 194), shall be applicable to appeals taken under this section.

PROHIBITED ACTS

SEC. 8. (a) (1) No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation, in any business in commerce any restricted eggs, capable of use as human food, except as authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(2) No egg handler shall possess with intent to use, or use, any restricted eggs in the preparation of human food for commerce except that such eggs may be so pos-

sessed and used when authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(b) (1) No person shall process any egg products for commerce at any plant except in compliance with the requirements of this Act.

(2) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in commerce any egg products required to be inspected under this Act unless they have been so inspected and are labeled and packaged in accordance with the requirements of section 7 of this Act.

(3) No operator of any official plant shall fail to comply with any requirements of paragraph (a) of section 6 of this Act or the regulations thereunder.

(4) No operator of any official plant shall allow any egg products to be moved from such plant if they are adulterated or misbranded and capable of use as human food.

(c) No person shall violate any provision of section 10, 11, or 17 of this Act.

(d) No person shall—

(1) manufacture, cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark

or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary;

(2) forge or alter any official device, mark, or certificate;

(3) without authorization from the Secretary, use any official device, mark, or certificate, or simulation thereof, or detach, deface, or destroy any official device or mark; or use any labeling or container ordered to be withheld from use under section 7 of this Act after final judicial affirmance of such order or expiration of the time for appeal if no appeal is taken under said section.

(4) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(5) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label, or any eggs or egg products bearing any counterfeit, simulated, forged, or improperly altered official mark;

(6) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary;

(7) knowingly represent that any article has been inspected or exempted, under this Act, when, in fact, it has, respectively, not been so inspected or exempted;

(8) refuse access, at any reasonable time, to any representative of the Secretary of Agriculture or the Secretary of Health, Education, and Welfare, to any plant or other place of business subject to inspection under any provisions of this Act.

(e) No person, while an official or employee of the United States Government or any State or local governmental agency, or thereafter, shall use to his own advantage, or reveal other than to the authorized representatives of the United States Government or any State or other government in their official capacity, or as ordered by a court in a judicial proceeding, any information acquired under the authority of this Act concerning any matter which is entitled to protection as a trade secret.

FEDERAL AND STATE COOPERATION

SEC. 9. The Secretary shall, whenever he determines that it would effectuate the purposes of this Act, cooperate with appropriate State and other governmental agencies, in carrying out any provisions of this Act. In carrying out the provisions of this Act, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any such

agency commissioned by him for such purpose. The Secretary shall reimburse the States and other agencies for the costs incurred by them in such cooperative programs.

EGG PRODUCTS NOT INTENDED FOR HUMAN FOOD

SEC. 10. Inspection shall not be provided under this Act at any plant for the processing of any egg products which are not intended for use as human food, but such articles, prior to their offer for sale or transportation in commerce, shall be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation, in commerce, any eggs or egg products which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary.

RECORD AND RELATED REQUIREMENTS FOR PROCESSORS OF EGGS AND EGG PRODUCTS AND RELATED INDUSTRIES

SEC. 11. For the purpose of enforcing the provisions of this Act and the regulations promulgated thereunder, all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in commerce or holding such articles so received, and all egg handlers, shall maintain such records showing, for such time and in such form and manner, as the Secretary of Agriculture or the Secretary of

Health, Education, and Welfare may prescribe, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of a duly authorized representative of either of said Secretaries, permit him at reasonable times to have access to and to copy all such records.

PENALTIES

SEC. 12. (a) Any person who commits any offense prohibited by section 8 of this Act shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine, but if such violation involves intent to defraud, or any distribution or attempted distribution of any article that is known to be adulterated (except as defined in section 4(a)(8) of this Act), such person shall be subject to imprisonment for not more than three years or a fine of not more than $10,000, or both. When construing or enforcing the provisions of section 8, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(b) No carrier or warehouseman shall be subject to the

penalties of this Act, other than the penalties for violation of section 11 of this Act or paragraph (c) of this section 12, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier or warehouseman of eggs or egg products owned by another person unless the carrier or warehouseman has knowledge, or is in possession of facts which would cause a reasonable person to believe that such eggs or egg products were not eligible for transportation under, or were otherwise in violation of, this Act, or unless the carrier or warehouseman refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such eggs or egg products and copies of all documents, if there be any, pertaining to the delivery of the eggs or egg products to, or by, such carrier or warehouseman.

(c) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such act, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his

official duties under this Act shall be punished as provided under sections 1111 and 1114 of title 18, United States Code.

REPORTING OF VIOLATIONS

SEC. 13. Before any violation of this Act is reported by the Secretary to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this Act shall be construed as requiring the Secretary to report for criminal prosecution violations of this Act whenever he believes that the public interest will be adequately served and compliance with the Act obtained by a suitable written notice of warning.

REGULATIONS AND ADMINISTRATION

SEC. 14. The Secretary shall promulgate such rules and regulations as he deems necessary to carry out the purposes or provisions of this Act, and shall be responsible for the administration and enforcement of this Act except as otherwise provided in paragraph (d) of section 5 of this Act.

EXEMPTIONS

SEC. 15. (a) The Secretary may, by regulation and under such conditions and procedures as he may prescribe, exempt from specific provisions of this Act—

(1) the sale, transportation, possession, or use of

eggs which contain no more restricted eggs than are allowed by the tolerances in the official standards of United States consumer grades for shell eggs;

(2) the processing of egg products at any plant where the facilities and operating procedures meet such sanitary standards as may be prescribed by the Secretary, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of United States consumer grades for shell eggs, and the egg products processed at such plant;

(3) the sale of eggs by any poultry producer from his own flocks directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(4) the processing of egg products by any poultry producer from eggs of his own flocks' production for sale of such products directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the egg products so processed when handled in accordance with this paragraph;

(5) the sale of eggs by shell egg packers on his

own premises directly to household consumers for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph; and

(6) for such period of time during the initiation of operations under this Act as the Secretary determines that it is impracticable to provide inspection, the processing of egg products at any class of plants and the egg products processed at such plants.

(b) The Secretary may, by regulation provide other exemptions, whenever he finds that such action will be consistent with effectuating the purposes of this Act.

(c) The Secretary may immediately suspend or terminate any exemption under paragraph (a) (2) or (6) of this section at any time with respect to any person, if the conditions of exemption prescribed by this section or the regulations of the Secretary are not being met. The Secretary may modify or revoke any regulation granting exemption under this Act whenever he deems such action appropriate to effectuate the purposes of this Act.

ENTRY OF MATERIALS INTO OFFICIAL PLANTS

SEC. 16. The Secretary may limit the entry of eggs and egg products and other materials into official plants under such conditions as he may prescribe to assure that allowing

the entry of such articles into such plants will be consistent with the purposes of this Act.

IMPORTS

SEC. 17. (a) No restricted eggs capable of use as human food shall be imported into the United States except as authorized by regulations of the Secretary. No egg products capable of use as human food shall be imported into the United States unless they were processed and are labeled and packaged in accordance with, and otherwise comply with the standards of this Act and regulations issued thereunder applicable to such articles within the United States. All such imported articles shall upon entry into the United States be deemed and treated as domestic articles subject to the other provisions of this Act: *Provided,* That they shall be labeled as required by such regulations for imported articles: *Provided further,* That nothing in this section shall apply to eggs or egg products purchased outside the United States by any individual for consumption by him and members of his household and his nonpaying guests and employees.

(b) The Secretary may prescribe the terms and conditions for the destruction of all such articles which are imported contrary to this section, unless (1) they are exported by the consignee within the time fixed therefor by the Secretary or (2) in the case of articles which are not in compliance solely because of misbranding, such articles are

brought into compliance with this Act under supervision of authorized representatives of the Secretary.

(c) All charges for storage, cartage, and labor with respect to any article which is imported contrary to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter imported under this Act by or for such owner or consignee.

(d) The importation of any article contrary to this section is prohibited.

REFUSAL OF INSPECTION

SEC. 18. The Secretary (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) may refuse to provide or may withdraw inspection service under this Act with respect to any plant if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this Act, because the applicant or recipient or anyone responsibly connected with the applicant or recipient has been convicted in any Federal or State court, within the previous ten years, of (1) any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with trans-

actions in food, or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he is a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock, or employee in a managerial or executive capacity.

The determination and order of the Secretary with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the United States court of appeals for the circuit in which such applicant or recipient has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 204 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 194) shall be applicable to appeals taken under this section.

This section shall not affect in any way other provisions of this Act for refusal of inspection services.

ADMINISTRATIVE DETENTION

SEC. 19. Whenever any eggs or egg products subject to the Act, are found by any authorized representative of the Secretary upon any premises and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of this Act or that they are in any other way in violation of this Act, or whenever any restricted eggs capable of use as human food, are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary, such articles may be detained by such representative for a reasonable period but not to exceed twenty days, pending action under section 20 of this Act or notification of any Federal, State, or other governmental authorities having jurisdiction over such articles and shall not be moved by any person from the place at which they are located when so detained until released by such representative. All official marks may be required by such representative to be removed from such articles before they are released unless it appears to the satisfaction of the Secretary that the articles are eligible to retain such marks.

JUDICIAL SEIZURE PROCEEDINGS

SEC. 20. (a) Any eggs or egg products that are or have been processed, bought, sold, possessed, used, transported, or

offered or received for sale or transportation, in violation of this Act, or in any other way are in violation of this Act; and any restricted eggs, capable of use as human food, in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary; shall be liable to be proceeded against and seized and condemned, at any time, on a complaint in any United States district court or other proper court as provided in section 21 of this Act within the jurisdiction of which the articles are found. If the articles are condemned they shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the articles shall not be sold contrary to the provision of this Act, the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which they are sold: *Provided,* That upon the execution and delivery of a good and sufficient bond conditioned that the articles shall not be sold or otherwise disposed of contrary to the provisions of this Act, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which disposal is made, the court may direct that they be delivered to the owner thereof subject to such supervision by authorized

representatives of the Secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the articles and they are released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant thereof. The proceedings in such cases shall conform, as nearly as may be, to the supplemental rules for certain admiralty and maritime claims, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Act, or other laws.

JURISDICTION

SEC. 21. The United States district courts and the District Court of the Virgin Islands are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act, and shall have jurisdiction in all other cases, arising under this Act, except as provided in section 18 of this Act. All proceedings for the enforcement or to restrain violations of this Act shall be by and in the name of the United States. Subpenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

APPLICABILITY OF OTHER ACTS

SEC. 22. For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Federal Trade Commission Act, as amended (38 Stat. 721–723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraphs (c) through (h) of section 6 and the last paragraph of section 9), and the provisions of subsection 409 (l) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409 (l)), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred by said sections 9 and 10 of the Federal Trade Commission Act, as amended, on the district courts of the United States may be exercised for the purposes of this Act by any court designated in section 21 of this Act.

RELATION TO OTHER AUTHORITIES

SEC. 23. (a) Requirements within the scope of this Act with respect to premises, facilities, and operations of any official plant which are in addition to or different than those

made under this Act may not be imposed by any State or local jurisdiction except that any such jurisdiction may impose recordkeeping and other requirements within the scope of section 11 of this Act, if consistent therewith, with respect to any such plant.

(b) For eggs which have moved or are moving in interstate or foreign commerce, no State or local jurisdiction may (1) require the use of standards of quality, condition, quantity or grade which are in addition to or different than the official standards, or (2) require labeling to show the State or other geographical area of production or origin. Labeling, packaging, or ingredient requirements, in addition to or different than those made under this Act, the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, may not be imposed by an State or local jurisdiction, with respect to egg products processed at any official plant in accordance with the requirements under such Acts. However, any State or local jurisdiction may exercise jurisdiction with respect to eggs and egg products for the purpose of preventing the distribution for human food purposes of any such articles which are outside of such a plant and are in violation of any of said Federal Acts or any State or local law consistent therewith. Otherwise the provisions of this Act shall not invalidate any law or other provisions of any State or other jurisdiction in the absence of a conflict with this Act.

(c) The provisions of this Act shall not affect the applicability of the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act or other Federal laws to eggs, egg products, or other food products or diminish any authority conferred on the Secretary of Health, Education, and Welfare or other Federal officials by such other laws, except that the Secretary of Agriculture shall have exclusive jurisdiction to regulate plants processing egg products and operations thereof as to all matters within the scope of this Act.

(d) The detainer authority conferred on representatives of the Secretary of Agriculture by section 19 of this Act shall also apply to any authorized representative of the Secretary of Health, Education, and Welfare for the purposes of paragraph (d) of section 5 of this Act, with respect to any eggs or egg products that are outside any plant processing egg products.

COST OF INSPECTION

SEC. 24. The cost of inspection rendered under the requirements of this Act, and other costs of administration of this Act, shall be borne by the United States, except that the cost of overtime and holiday work performed in official plants subject to the provisions of this Act at such rates as the Secretary may determine shall be borne by such official plants. Sums received by the Secretary from official

plants under this section shall be available without fiscal year limitation to carry out the purposes of this Act.

APPROPRIATIONS

SEC. 25. Such sums as are necessary to carry out the provisions of this Act are hereby authorized to be appropriated.

SEPARABILITY OF PROVISIONS

SEC. 26. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DAY

SEC. 27. The provisions of this Act with respect to egg products shall take effect six months after enactment. Otherwise, this Act shall take effect eighteen months after enactment.

Calendar No. 630

91ST CONGRESS
2D SESSION

S. 2116

[Report No. 91–639]

A BILL

To provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act; and for other purposes.

By Mr. AIKEN

MAY 12, 1969
Read twice and referred to the Committee on Agriculture and Forestry

JANUARY 28, 1970
Reported without amendment

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

For actions of Feb. 2, 1970
91st-2nd; No. 12

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HIGHLIGHTS: Both Houses received President's budget message. Both Houses received President's economic report. Senate passed egg products inspection bill.

HOUSE

1. BUDGET. Both Houses received the President's budget message (H. Doc. 91-240) (pp. H558-65, S968-75). Several Reps. discussed the message (pp. H565-9, H570). Attached to this Digest are excerpts from the President's message and a table showing USDA items.

2. ECONOMIC REPORT. Both Houses received the President's economic report (H. Doc. 91-253). pp. H570-2, S975-8

3. LANDS. Passed as reported H. R. 9882, to authorize the Secretary of the Interior to sell reserved phosphate interests of the U.S. in certain lands in Fla. pp. H576-7

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

4. FORESTS. Rep. Albert announced that H. R. 12025, the high timber yield bill, will be called up for consideration on Thursday instead of on Wednesday . p. H576

5. APPROPRIATIONS. Passed under suspension of the rules H. J. Res. 1072, making continuing appropriations for the fiscal year 1970. pp. H579-80

SENATE

6. EGGS. Passed with amendments S. 2116, the egg products inspection bill. Agreed to an amendment by Sen. Mondale removing from the bill general exemption authority granted to the Secretary of Agriculture, and an amendment by Sen. Aiken of a technical and clarifying nature. pp. S978-84

7. POLLUTION. Sen. Hatfield praised the President for releasing the full $800 million for grants for municipal sewage treatment plants, and inserted reports and a newspaper article. pp. S1007-8

8. ENVIRONMENT. Sen. Nelson reported that the UAW had announced that "the environment is going to be an issue in its 1970 negotiations", and inserted a statement by the UAW president. pp. S1009-11

EXTENSION OF REMARKS

9. BUDGET. Rep. Mize inserted an article which states that the President's priorities will be indicated by his budget cuts. p. E580

10. ENVIRONMENT. Rep. Holifield noted the involvement of AEC in environmental research and inserted Rep. Price's address, "Universities, National Laboratories, and Man's Environment." p. E584

Rep. Scheuer expressed the "hope that the administration continues as the spokesman for the environment", and praised the decision not to provide funds for the construction of an airport beside the Everglades. p. E597

11. METRIC SYSTEM. Rep. Miller noted that lack of understanding of the metric system prevents its wider use in this country, and inserted an article on the adoption of the system in Britain. pp. E593-5

BILLS INTRODUCED

12. FISHERIES. H. R. 15663, by Rep. Pelly, to amend the Fish and Wildlife Act of 1956 to authorize loans to fishermen's cooperative associations; to Merchant Marine and Fisheries Committee.

13. TRANSPORTATION. H. R. 15667, by Rep. Scherle, to give the Interstate Commerce Commission additional authority to alleviate freight car shortages; to Interatate and Foreign Commerce Committee.

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COMMITTEE HEARINGS FEB. 3:

Farm program (wheat section), H. Agriculture (exec). Consumer protection, S. Commerce and H. Interstate and Foreign Commerce. Loans to Indian tribes, H. Interior (exec). Establish Commission on Population Growth; production research under marketing agreements; and exempt potatoes for processing from marketing orders, H. Rules. Water quality improvement, conferees (exec). Environmental decade, H. Gov't Operations.

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supply expanding by 7 percent, as in 1968, it grew at a 4.4-percent annual rate in the first half of 1969 and at a 0.7-percent rate in the second half.

The growth of total spending, public and private, which was the driving force of the inflation, slowed markedly, from 9.4 percent during 1968 to 6.8 percent during 1969 and an annual rate of 4.4 percent in the fourth quarter of 1969. This decline in the growth of spending was inevitably accompanied by what in October I called "slowing pains." Gains in real production slowed down. Industrial production declined. Profits drifted lower as margins were squeezed. All of these slowing pains were increased, and the inflation prolonged, by the failure of productivity to rise, for the first time in many years.

And in the latter part of the year there were the first faint signs of gain on the price front. Instead of continuing to accelerate, the rate of inflation itself began to level out.

THE OUTLOOK FOR 1970

As we enter 1970 continuation of a low rate of growth of sales, production, and employment for several months seems probable. Thereafter, the performance of the economy will depend on both the continued resolve of the Government and the difficult-to-predict behavior of the private sector.

Government policy must now avoid three possible dangers. One is that after a brief lull the demand for output would begin to rise too rapidly and rekindle the inflationary process, as happened in 1967. This possibility cannot be ignored. The tax bill passed in December reduced revenues for the next fiscal year by close to $3 billion, compared to my original proposals, requiring the Administration to reduce spending plans further in order to retain a surplus. Pressures for increased spending threaten to shift the budget from the surplus position to a deficit by the latter part of calendar 1970 unless the responsible fiscal course urged by the Administration is accepted by the Congress.

A second danger we must consider is that the mode rate and necessary slowdown may become more severe. The highly restrictive stance of monetary policy is one reason for considering this possibility. Moreover, there is a question whether the rate of real output can long remain essentially flat without more adverse consequences than we have so far experienced. Until now the unemployment rate has remained low, partly because employers have retained workers despite growing signs of sluggishness in sales. However, they may be unwilling to do this for long with profits shrinking.

A third danger is that although the economy remains on the path of slow rise, and avoids either serious recession or revived inflation, this is achieved with such tight credit conditions as to paralyze the housing industry, preventing needed additions to the supply of homes and apartments. A Federal budget deficit, which would require the Treasury to become again a net borrower in the capital markets, taking funds that would otherwise go to other users, might bring this about. This is one reason why I continue to stress the importance of a strong budget position.

Our objective is to avoid these dangers as we achieve stability. A necessary condition for doing this is to keep the Federal budget in balance in the coming fiscal year.

A prudent fiscal policy, avoiding the risks of returning to budget deficits, and a prudent monetary policy, avoiding the risks of overly long and overly severe restraint, offer the best promise of relieving strains and distortions in financial markets, bringing interest rates down, and encouraging a sustainable and orderly forward movement of the economy.

After some months of slow expansion of sales, output, and employment, which seems likely, a moderately quicker pace later in the year would be consistent with continued progress in reducing the rate of inflation.

The goal of policy should therefore be moderately more rapid economic expansion in the latter part of 1970 than we have recently been experiencing or expect for several months ahead. Keeping the Federal budget in balance, as I have recommended, and a moderate degree of monetary restraint will help achieve this result. This combination of policies would also permit residential construction to revive and begin a rise toward the path of housebuilding required by our growing number of families needing homes and apartments.

As far as can now be foreseen, this pattern of developments through the year could be achieved with a gross national product for 1970 of about $985 billion. This would be 5½ percent above that for 1969. A slowdown in the rate of increase of consumer prices is a reasonable expectation in this economic outlook.

An unfortunate cost of having allowed the inflation to run for so long is that it courts the risk of some rise in unemployment. The policy of firm and persistent disinflation on which we have embarked, however, holds out the best hope of keeping that risk low.

This risk emphasizes the importance of promptly enacting the legislation this Administration has recommended for manpower training, unemployment compensation, and welfare systems:

The proposed Manpower Training Act would not only bring about better planning and management of training programs; it would also trigger an automatic increase in appropriations for these programs if the national unemployment rate reaches 4.5 percent for 3 consecutive months.

The unemployment compensation legislation would increase coverage, encourage States to improve benefits, and provide for Federal financing of extended benefits if unemployment of insured workers exceeds 4.5 percent for 3 consecutive months.

The Proposed Family Assistance Program would provide income support for poor families with children, whether headed by a male or a female, while providing strong incentives and assistance for those who can do so to find and accept employment.

Because our expanding and dynamic economy must have strong and innovative financial institutions if our national savings are to be utilized effectively, I shall appoint a commission to study our financial structure and make recommendations to me for needed changes.

In 1970, we are feeling the postponed pinch of the late sixties. If responsible policies had been followed then, the problems of 1970 would be much easier. But we cannot undo the errors of the past. We have no choice now but to correct them, and to avoid repeating them.

STRENGTHENING THE WORLD ECONOMY

The achievement of greater balance and stability in our own economy is also important for international finance and trade. The dollar is not only our currency; it provides the principal vehicle for world trade and payments. We are the world's largest exporter and importer, and instability in the United States—whether it involves inflation or recession—has unsettling effects on the world economy. Inflationary pressures arising in the United States have added to inflationary problems in other countries in recent years. The long inflation has also weakened our trading position. However, with the restraining of excessive demand in 1969, the deterioration in our trade balance has been arrested.

I am particularly gratified to note improvements in the international monetary scene during the past year with the introduction of Special Drawing Rights and with the realignment of several important currencies. In cooperation with other countries, we are actively investigating other ways to make the international monetary system more stable and orderly, and to give more attention to international coordination and synchronization in the management of domestic economic policies.

Although a high and rising level of international trade can add to the prosperity of the United States and other countries, imports from time to time may cause domestic dislocations. Since the gains from international trade are enjoyed by the country as a whole, it is appropriate that the costs of trade-associated dislocations be spread more evenly. The trade bill presented to the Congress in November contains practical adjustment assistance and escape-clause provisions that would soften the impact of import competition in cases where it harms our own workingmen. It also includes the repeal of the American selling price method of tariff evaluation, a step which is important in reducing the nontariff barriers to U.S. exports.

Trade is vital to the progress of the less developed countries of the world. With other industrialized nations, the United States is exploring ways of enabling less developed nations to participate more in the growing volume of international trade.

SEVEN BASIC PRINCIPLES

Since this is my first Economic Report, it is in order for me to set out the basic principles that will continue to guide the management of economic policy in my Administration:

First, *the integrity and purchasing power of the dollar must be assured.* To re-create confidence in a secure future,

we must achieve that reasonable stability of the price level which has been so severely eroded since mid-1965. The unfairness of a steeply rising cost of living must not again be inflicted on this Nation.

Second, *our economic policy must continue to emphasize a high utilization of the Nation's productive resources.* We must maintain a vigorous and expanding economy to provide jobs for our growing labor force.

Third, *we must achieve a steadier and more evenhanded management of our economic policies.* Business and labor cannot plan, and consumers and homebuyers cannot effectively manage their affairs, when Government alternates between keeping first the accelerator and then the brake pedal to the floor.

Fourth, *Government must say what it means and mean what it says.* Economic credibility is the basis for confidence, and confidence in turn is the basis for an ongoing prosperity.

Fifth, *we must preserve and sustain the free market economy in order to raise the standard of living of every American.* The most basic improvement in our national life during the last three decades has come through the doubling of real purchasing power that our free competitive economy has delivered to the average American family. No Government programs during that period begin to approach this doubling of real income per family as a source of our improving economic well-being. Government now has both the ability and the duty to sustain a general climate for stability and growth, but it must do so in the firm conviction that only a free economy provides maximum scope for the knowledge, innovativeness, and creative powers of each individual.

Sixth, *we must involve the American people in setting goals and priorities by providing accurate, credible data on the long-range choices open to them, making possible much better informed public discussion about using the resources we will have in meeting the needs of the future.* The 1970 Annual Report of the Council of Economic Advisers is a long first step in that direction.

Finally, *the free economy of the future will rest squarely on the foundation of genuinely equal opportunity for all.* Some, because of race or national origin, find themselves situated far back of the starting line in our economy. Others by the happenstance of health, accidental injury, education, or economic background are unable to participate fully in our economic life; still others become casualties of obsolete skills. We are deeply committed to make a reality of the promise of an equal opportunity in life, so that the fruits of our economic progress and abundance will become available to all. The national conscience demands it, human dignity requires it, and our free and open economic system cannot be fully effective without it.

RICHARD NIXON.

THE WHITE HOUSE, *February 2, 1970.*

EGG PRODUCTS INSPECTION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 630, Senate bill 2116.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. S. 2116, to provide for the inspection of certain egg products by the U.S. Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this act; and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. AIKEN. Mr. President, S. 2116 prohibits the distribution of unwholesome shell eggs or their use in food products, and provides for mandatory continuous inspection of egg product processing plants.

The bill would generally require plants processing egg products for interstate, foreign, or intrastate commerce to operate under continuous inspection of USDA, except those exempted by the Secretary of Agriculture.

The USDA inspected egg products would have to comply with the provisions of the bill concerning adulteration, pasteurization, and the labeling and packaging requirements to be prescribed by regulations under the bill.

The USDA would cooperate with States in administering such provisions and fully reimburse the States for their assistance.

The Secretary of Agriculture would be authorized to exempt egg products processing at plants where the facilities and operating procedures meet sanitary standards as may be prescribed by the Secretary, and where the eggs received or used by such plants meet the U.S. consumer grades for shell eggs.

The USDA would inspect such plants on a periodic basis, and they would also be subject to applicable local, State, and other Federal laws.

The bill also affects shell eggs by prohibiting producers, shell egg plant operators, and other persons from selling or offering for sale or otherwise distributing in interstate, foreign, or intrastate commerce any restricted eggs—that is, dirty, check, leaker, incubator reject, loss, or inedible—capable of use as human food, except as authorized by regulations of the Secretary, or as exempted by the Secretary.

The bill is designed to guarantee that consumers will receive wholesome eggs and egg products by controlling the use of restricted eggs and by continuing the grading of eggs.

Clean and sound shell eggs are not a public health problem but eggs classified as leakers, checks, dirties, inedible, loss, and incubator rejects are frequently carriers of salmonellae and other bacteria.

Salmonellosis is one of the major foodborne illnesses affecting man and the program authorized by S. 2116 should go far in removing this source of infection.

The cost of inspection, except for overtime and holiday work in official plants, would be borne by the United States, and would be about $5 million annually.

Mr. President, this bill was reported by the Committee on Agriculture and Forestry unanimously. There was virtually no objection to it.

I understand that the Senator from Minnesota (Mr. MONDALE) has an amendment which he proposes to offer. I have discussed this with him and also with the chairman of the committee. If the Senator will offer his amendment at this time, I shall be happy to accept it.

Mr. MONDALE. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The amendment offered by the Senator from Minnesota is as follows:

On page 24, strike out lines 11, 12, and 13.
On page 24, line 14, strike out "(c)" and insert in lieu thereof "(b)".

Mr. AIKEN. Mr. President, the provision which the amendment would strike from the bill is only three lines long and was inserted as a sort of escape or contingency provision in the event that the Department of Agriculture found it desirable, later on, to utilize further exemptions to those already provided in the bill. I believe the best procedure now is to strike the proposed general exemption authority by agreeing to the amendment and then pass the bill.

Mr. MONDALE. Mr. President, as the sponsor of what, I believe, was the first egg inspection bill—S. 383, 90th Congress—I am glad to see that the Agriculture Committee has reported a bill which covers egg products.

The measure does not include mandatory inspection of shell eggs. I believe we will discover that some type of legislation is needed in this field as well. Since I am no longer a member of the Senate Agriculture Committee I am frank to confess that I have not had an opportunity to focus adequately on this problem area. I understand that the House of Representatives will be considering this problem and I would hope the conferees would be receptive to a broader bill if the House should enact one.

The committee bill does propose to deal with the very important area of processed eggs and I believe it is vital that we deal effectively with this inital area as the Congress earler dealt with red meat and poultry.

The record is clear that egg products are among the leading sources of salmonellosis, one of the major foodborne illnesses affecting humans. And State activities to protect the consumer from this widespread, and sometimes fatal, illness are virtually nonexistent. In 1968, only 18 States had specific egg products laws and no State required continuous inspection.

Thus, it is very important to have a good, strong Federal program. At present, the voluntary Federal program fails to cover a substantial segment of the egg processing industry. I believe that S.

2116 would permit a good Federal program but, unfortunately, it would not assure it.

The problem is in the unprecedented grant of exemption authority which would be given to the Secretary of Agriculture. Section 15(a) of the bill—beginning on page 22—sets out a number of quite specific exemptions which the Secretary would be permitted to grant:

First, the sale or use of shell eggs which contain no more "restricted" eggs than are allowed by tolerances in the official consumer grade standards;

Second, egg processing at plants which use only consumer-grade eggs;

Third, sale of shell eggs by producers from their own flocks directly to household consumers;

Fourth, processing and sale of egg products by producers from their own flocks directly to household consumers; and

Fifth, sale of shell eggs by packers on their own premises directly to household consumers.

Mr. President, these are quite extensive exemption authorities. As the principal author of the Wholesome Meat Act of 1967 and as a cosponsor of the Wholesome Poultry Act of 1968, I can attest that these exemptions go beyond those in the other programs. For example, slaughtering of animals by an owner is exempt from the inspection provisions of the Meat Act only if the meat is to be used by the owner himself. But here we have exemptions which permit egg producers or packers to sell eggs which are not inspected.

What I must object to is the granting of a further exemption authority in section 15(b) which is so broad that the Department of Agriculture, itself, has described it as a "blanket" exemption authority. Under it, the Secretary may, by regulation, "provide other exemptions whenever he finds that such action will be consistent with effectuating the purposes of this act." These other exemptions are nowhere specified.

The legislative history surrounding this provision gives us no basis for confidence in its wise use. In its November 13, 1969, report to the committee on the bill, the Department made no reference to the provision. Not even in the detailed summary of the bill, which was attached to the report, did the Department mention this blank-check exemption power. Similarly, in testifying before the committee on November 14, Assistant Secretary Lyng gave no reasons for needing such unprecedented discretionary authority.

The Department finally commented on this provisio briefly in a statement filed with the committee, comparing S. 2116 with H.R. 14687, a comprehensive egg and egg products bill introduced in the House by Messrs. PURCELL, FOLEY, and SMITH of Iowa. On page 69 of the committee's hearings, on S. 2116, the Department stated, in part:

> We believe that this blanket exemption authority is constructive and should not be deleted. Many marketing and handling operations of shall eggs would be subject to national retgulation for the first time. It is impossible to predict if certain other exemptions might be desirable and helpful within the purposes of the Act.

What other exemptions would be desirable and helpful? The Department does not tell us. I believe the Congress has not only the right, but the obligation, to find out before it gives the Department this kind of power.

In what appears to be a case of exemption overkill, the Department has another broad grant of authority in section 8(a)(1) of the bill—page 15. Here the sale of restricted eggs is prohibited "except as authorized by regulations of the Secretary" under conditions to assure that only wholesome eggs are used as food. Is not this general authority adequate to fill any gaps left in the five specific exemptions permitted under section 15(a)?

Perhaps there would be some justification for the blanket exemption authority if it were needed in the early months of the new program. There may well be some problem in applying all of the provisions of the act promptly. Under section 27, it is provided that the egg products program takes effect in only 6 months.

But the bill already protects the Department against any need for precipitate enforcement. Section 15(a)(6) authorizes the Secretary to defer initiation of the entire egg products inspection program "for such period of time during the initiation of operations" as he "determines that it is impracticable to provide inspection." So the blanket exemptions authority is not needed for getting the program started smoothly.

Here, too, the specific exemption authority which Congress would grant for the initiation period is far broader than in previous statutes. The comparable provision in the original poultry inspection program of 1957 was limited to 2 years. In both the Wholesale Meat and Poultry Acts of 1967 and 1968, the phase-in period for intrastate coverage was 2 years with a possible 1 year's extension.

Mr. President, what this boils down to is a case of quite understandable, bureaucratic interest in maximum administrative flexibility and convenience. But the Congress is being asked to sign a blank check simply because the Department of Agriculture finds it "impossible to predict" what other situations might lead it to grant additional exemptions.

I believe that Congress should not abdicate its responsibility for assuring adequate consumer protection in this important area by giving the Department such broad authority to reshape the program which we are enacting. I do not question the motives or the intentions of the Department. I do, however, question its judgment in seeking such unprecedented powers with so little explanation or justification.

I urge that section 15(b) be stricken from the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. AIKEN. Mr. President, I send six amendments to the desk and ask that they be stated. They are strictly technical, as prepared by the staff of the Committee on Agriculture and Forestry. None of them in any way changes the meaning or the purpose of the bill.

The BILL CLERK. The Senator from Vermont (Mr. AIKEN) proposes the following amendments:

On page 19, line 4, at the beginning of the line insert "EGGS AND".

On page 19, line 13, at the beginning of the line, insert "restricted".

On page 22, line 2, strike "1114" and insert "1112".

On page 22, after the word "Secretary" in line 5, and after the word "Secretary" in line 11, insert "of Agriculture or Secretary of Health, Education, and Welfare".

On page 25, line 8, after the word "processed" insert "under an approved continuous inspection system of the government of the foreign country of origin or subdivision thereof".

On page 33, line 8, after word "regulate" insert "official".

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc. And, without objection, the amendments are agreed to.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Kansas (Mr. DOLE) relating to the improvement of the quality of egg production.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DOLE

In today's economy, we hear many success stories concerning business growth and production efficiencies. One of the leaders in these areas has been the poultry industry and its egg processors. This industry has developed efficient production methods and is now concerned with improving and guaranteeing the quality of its production. The industry indicated its interest in such self-improvement when Milton J. Chamberlain testified before the Committee on Agriculture and Forestry on S. 2116. Mr. Chamberlain represented the Institute of American Poultry Industries, the National Egg Council, and 16 other organizations representing statewide associations of egg and poultry producers.

I would submit my endorsement of S. 2116 in the words of Mr. Chamberlain from the text of his testimony before the committee:

"The bill is a sound and workable measure to provide for the inspection and regulation of eggs and egg products."

With such indication of cooperation from the industry involved, it seems apparent this will be a highly efficient working piece of legislation, providing new consumer protection at a minimal cost to the taxpayer.

I urge Senators to support the bill.

Mr. AIKEN. Mr. President, I might add one more thing. I have had an inquiry from the Senator from Hawaii (Mr. FONG) as to the effect of the bill on the importation of so-called thousand-year-old eggs.

I can assure the Senator from Hawaii that the pending bill will have no effect on thousand-year-old egg imports. I do

not know just what kind of food product they are classified as now, but the pending bill does not affect them in any way.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2116

An Act to provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Egg Products Inspection Act".

LEGISLATIVE FINDING

SEC. 2. Eggs and egg products are an important source of the Nation's total supply of food, and are used in food in various forms. They are consumed throughout the Nation and the major portion thereof moves in interstate or foreign commerce. It is essential, in the public interest, that the health and welfare of consumers be protected by the adoption of measures prescribed herein for assuring that eggs and egg products distributed to them and used in products consumed by them are wholesome, otherwise not adulterated, and properly labeled and packaged. Lack of effective regulation for the handling or disposition of unwholesome, otherwise adulterated, or improperly labeled or packaged egg products and certain qualities of eggs is injurious to the public welfare and destroys markets for wholesome, not adulterated, and properly labeled and packaged eggs and egg products and results in sundry losses to producers and processors, as well as injury to consumers. Unwholesome, otherwise adulterated, or improperly labeled or packaged products can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged products, to the detriment of consumers and the public generally. It is hereby found that all egg products and the qualities of eggs which are regulated under this Act are either in interstate or foreign commerce, or substantially affect such commerce, and that regulation by the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, and cooperation by the States and other jurisdictions, as contemplated by this Act, are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers.

DECLARATION OF POLICY

SEC. 3. It is hereby declared to be the policy of the Congress to provide for the inspection of certain egg products, restrictions upon the disposition of certain qualities of eggs, and uniformity of standards for eggs, and otherwise regulate the processing and distribution of eggs and egg products as hereinafter prescribed to prevent the movement or sale for human food, of eggs and egg products which are adulterated or misbranded or otherwise in violation of this Act.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) The term "adulterated" applies to any egg or egg product under one or more of the following circumstances—

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2)(A) if it bears or contains any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

(C) if it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(D) if it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act: *Provided,* That an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the Secretary in official plants;

(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(4) if it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally subjected to radiation, unless the use of the radation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(b) The term "capable of use as human food" shall apply to any egg or egg product, unless it is denatured, or otherwise identified, as required by regulations prescribed by the Secretary to deter its use as human food.

(c) The term "commerce" means interstate, foreign, or intrastate commerce.

(d) The term "container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(1) The term "immediate container" means any consumer package; or any other container in which egg products, not consumar packaged, are packed.

(2) The term "shipping container" means any container used in packaging a product packed in an immediate container.

(e) The term "egg handler" means any person who engages in any business in commerce which involves buying or selling any eggs (as a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food.

(f) The term "egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products.

(g) The term "egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

(1) The term "check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(2) The term "clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(3) The term "dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(4) The term "incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(5) The term "inedible" means eggs of the following descriptions: black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(6) The term "leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(7) The term "loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(8) The term "restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(h) The term "Fair Packaging and Labeling Act" means the Act so entitled, approved November 3, 1966 (80 Stat. 1296), and Acts amendatory thereof or supplementary thereto.

(i) The term "Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

(j) The term "inspection" means the application of such inspection methods and techniques as are deemed necessary by the responsible Secretary to carry out the provisions of this Act.

(k) The term "inspector" means:

(1) any employee or official of the United States Government authorized to inspect eggs or egg products under the authority of this Act; or

(2) any employee or official of the government of any State or local jurisdiction authorized by the Secretary to inspect eggs or egg products under the authority of this act, under an agreement entered into between the Secretary and the appropriate State or other agency.

(l) The term "misbranded" shall apply to egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the Secretary under section 7 of this Act.

(m) The term "official certificate" means

any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person perfoming official functions under this Act.

(n) The term "official device" means any device prescribed or authorized by the Secretary for use in applying any official mark.

(o) The term "official inspection legend" means any symbol prescribed by regulations of the Secretary showing that egg products were inspected in accordance with this Act.

(p) The term "official mark" means the official inspection legend or any other symbol prescribed by regulations of the Secretary to identify the status of any article under this Act.

(q) The term "official plant" means any plant, as determined by the Secretary, at which inspection of the processing of egg products is maintained by the Department of Agriculture under the authority of this Act.

(r) The term "official standards" means the standards of quality, grades, and weight classes for eggs, in effect upon the effective date of this Act, or as thereafter amended, under the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 7 U.S.C. 1621 et seq.).

(s) The term "pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful viable micro-organisms by such processes as may be prescribed by regulations of the Secretary.

(t) The term "person" means any individual, partnership, corporation, association, or other business unit.

(u) The terms "pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" shall have the same meaning for purposes of this Act as under the Federal Food Drug and Cosmetic Act.

(v) The term "plant" means any place of business where egg products are processed.

(w) The term "processing" means manufacturing egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(x) The term "Secretary" means the Secretary of Agriculture or his delegate.

(y) The term "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia.

(z) The term "United States" means the States.

INSPECTION, REINSPECTION, CONDEMNATION

SEC. 5. (a) For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any egg product which is capable of use as human food and is misbranded or adulterated, the Secretary shall, whenever processing operations are being conducted, cause continuous inspection to be made, in accordance with the regulations promulgated under this Act, of the processing of egg products, in each plant processing egg products for commerce, unless exempted under section 15 of this Act. Without restricting the application of the preceding sentence to other kinds of establishments within its provisions, any food manufacturing establishment, institution, or restaurant which uses any eggs that do not meet the requirements of paragraph (a)(1) of section 15 of this Act in the preparation of any articles for human food shall be deemed to be a plant processing egg products, with respect to such operations.

(b) The Secretary, at any time, shall cause such retention, segregation, and reinspection as he deems necessary of eggs and egg products capable of use as human food in each official plant.

(c) Eggs and egg products found to be adulterated at official plants shall be condemned and, if no appeal be taken from such determination of condemnation, such articles shall be destroyed for human food purposes under the supervision of an inspector: *Provided,* That articles which may by reprocessing be made not adulterated need not be condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the eggs or egg products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the Secretary determines that the appeal is frivolous. If the determination of condemnation is sustained, the eggs or egg products shall be destroyed for human food purposes under the supervision of an inspector.

(d) The Secretary shall cause such other inspections to be made of the business premises, facilities, inventory, operations, and records of egg handlers, and the records and inventory of other persons required to keep records under section 11 of this Act, as he deems appropriate to assure that only eggs fit for human food are used for such purpose, and otherwise to assure compliance by egg handlers and other persons with the requirements of section 8 of this Act, except that the Secretary of Health, Education, and Welfare shall cause such inspections to be made as he deems appropriate to assure compliance with such requirements at food manufacturing establishments, institutions, and restaurants, other than plants processing egg products. Representatives of said Secretaries shall be afforded access to all such places of business for purposes of making the inspections provided for in this Act.

SANITATION, FACILITIES, AND PRACTICES

SEC. 6. (a) Each official plant shall be operated in accordance with such sanitary practices and shall have such premises, facilities, and equipment as are required by regulations promulgated by the Secretary to effectuate the purposes of this Act, including requirements for segregation and disposition of restricted eggs.

(b) The Secretary shall refuse to render inspection to any plant whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

PASTEURIZATION AND LABELING OF EGG PRODUCTS AT OFFICIAL PLANTS

SEC. 7. (a) Egg products inspected at any official plant under the authority of this Act and found to be not adulterated shall be pasteurized before they leave the official plant, except as otherwise permitted by regulations of the Secretary, and shall at the time they leave the official plant, bear in distinctly legible form on their shipping containers or immediate containers, or both, when required by regulations of the Secretary, the official inspection legend and official plant number, of the plant where the products were processed, and such other information as the Secretary may require by regulations to describe the products adequately and to assure that they will not have false or misleading labeling.

(b) No labeling or container shall be used for egg products at official plants if it is false or misleading or has not been approved as required by the regulations of the Secretary. If the Secretary has reason to believe that any labeling or the size or form of any container in use or proposed for use with respect to egg products at any official plant is false or misleading in any particular, he may direct that such use be withheld unless the labeling or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to use the labeling or container does not accept the determination of the Secretary, such person may request a hearing, but the use of the labeling or container shall, if the Secretary so directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the United States court of appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162, as amended; 7 U.S.C. 194), shall be applicable to appeals taken under this section.

PROHIBITED ACTS

SEC. 8. (a)(1) No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation, in any business in commerce any restricted eggs, capable of use as human food, except as authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(2) No egg handler shall possess with intent to use, or use, any restricted eggs in the preparation of human food for commerce except that such eggs may be so possessed and used when authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(b)(1) No person shall process any egg products for commerce at any plant except in compliance with the requirements of this Act.

(2) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in commerce any egg products required to be inspected under this Act unless they have been so inspected and are labeled and packaged in accordance with the requirements of section 7 of this Act.

(3) No operator of any official plant shall fail to comply with any requirements of paragraph (a) of section 6 of this Act or the regulations thereunder.

(4) No operator of any official plant shall allow any egg products to be moved from such plant if they are adulterated or misbranded and capable of use as human food.

(c) No person shall violate any provision of section 10, 11, or 17 of this Act.

(d) No person shall—

(1) manufacture, cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary;

(2) forge, or alter any official device, mark, or certificate;

(3) without authorization from the Secretary, use any official device, mark, or certificate, or simulation thereof, or detach, deface, or destroy any official device or mark; or use any labeling or container ordered to be withheld from use under section 7 of this Act after final judicial affirmance of such order or expiration of the time for appeal if no appeal is taken under said section.

(4) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(5) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label, or any eggs or egg products bearing any counterfeit, simulated, forged, or improperly altered official mark;

(6) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary;

(7) knowingly represent that any article has been inspected or exempted, under this

Act, when, in fact, it has, respectively, not been so inspected or exempted;

(8) refuse access, at any reasonable time, to any representative of the Secretary of Agriculture or the Secretary of Health, Education, and Welfare, to any plant or other place of business subject to inspection under any provisions of this Act.

(e) No person, while an official or employee of the United States Government or any State or local governmental agency, or thereafter, shall use to his own advantage, or reveal other than to the authorized representatives of the United States Government or any State or other government in their official capacity, or as ordered by a court in a judicial proceeding, any information acquired under the authority of this Act concerning any matter which is entitled to protection as a trade secret.

FEDERAL AND STATE COOPERATION

SEC. 9. The Secretray shall, whenever he determines that it would effectuate the purposes of this Act, cooperate with appropriate State and other governmental agencies, in carrying out any provisions of this Act. In carrying out the provisions of this Act, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any such agency commissioned by him for such purpose. The Secretary shall reimburse the States and other agencies for the costs incurred by them in such cooperative programs.

EGGS AND EGG PRODUCTS NOT INTENDED FOR HUMAN FOOD

SEC. 10. Inspection shall not be provided under this Act at any plant for the processing of any egg products which are not intended for use as human food, but such articles, prior to their offer for sale or transportation in commerce, shall be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation, in commerce, any restricted eggs or egg products which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary.

RECORD AND RELATED REQUIREMENTS FOR PROCESSORS OF EGGS AND EGG PRODUCTS AND RELATED INDUSTRIES

SEC. 11. For the purpose of enforcing the provisions of this Act and the regulations promulgated thereunder, all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in commerce or holding such articles so received, and all egg handlers, shall maintain such records showing, for such time and in such form and manner, as the Secretary of Agriculture or the Secretary of Health, Education, and Welfare may prescribe, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of a duly authorized representative of either of said Secretaries, permit him at reasonable times to have access to and to copy all such records.

PENALTIES

SEC. 12. (a) Any person who commits any offense prohibited by section 8 of this Act shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine, but if such violation involves intent to defraud, or any distribution or attempted distribution of any article that is known to be adulterated (except as defined in section 4(a)(8) of this Act), such person shall be subject to imprisonment for not more than three years or a fine of not more than $10,000, or both. When construing or enforcing the provisions of section 8, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his employment or office shall in every case be demed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(b) No carrier or warehouseman shall be subject to the penalties of this Act, other than the penalties for violation of section 11 of this Act or paragraph (c) of this section 12, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier or warehouseman of eggs or egg products owned by another person unless the carrier or warehouseman has knowledge or is in possession of facts which would cause a reasonable person to believe that such eggs or egg products were not eligible for transportation under, or were otherwise in violation of, this Act, or unless the carrier or warehouseman refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such eggs or egg products and copies of all documents, if there be any, pertaining to the delivery of the eggs or egg products to, or by, such carrier or warehouseman.

(c) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such act, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punished as provided under sections 1111 and 1112 of title 18, United States Code.

REPORTING OF VIOLATIONS

SEC. 13. Before any violation of this Act is reported by the Secretary of Agriculture or Secretary of Health, Education, and Welfare to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated procceding. Nothing in this Act shall be construed as requiring the Secretary of Agriculture or Secretary of Health, Education, and Welfare to report for criminal prosecution violations of this Act whenever he believes that the public interest will be adequately served and compliance with the Act obtained by a suitable written notice of warning.

REGULATIONS AND ADMINISTRATION

SEC. 14. The Secretary shall promulgate such rules and regulations as he decms necessary to carry out the purposes or provisions of this Act, and shall be responsible for the administration and enforcement of this Act except as otherwise provided in paragraph (d) of section 5 of this Act.

EXEMPTIONS

SEC. 15. (a) The Secretary may, by regulation and under such conditions and procedures as he may prescribe, exempt from specific provisions of this Act—

(1) the sale, transportation, possession, or use of eggs which contain no more restricted eggs than are allowed by the tolerances in the official standards of United States consumer grades for shell eggs;

(2) the processing of egg products at any plant where the facilities and operating procedures meet such sanitary standards as may be prescribed by the Secretary, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of United States consumer grades for shell eggs, and the egg products processed at such plant;

(3) the sale of eggs by any poultry producer from his own flocks directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(4) The processing of egg products by any poultry producer from eggs of his own flocks' production for sale of such products directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the egg products so processed when handled in accordance with this paragraph;

(5) the sale of eggs by shell egg packers on his own premises directly to household consumers for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph; and

(6) for such period of time during the initiation of operations under this Act as the Secretary determines that it is impracticable to provide inspection, the processing of egg products at any class of plants and the egg products processed at such plants.

(b) The Secretary may immediately suspend or terminate any exemption under paragraph (a) (2) or (6) of this section at any time with respect to any person, if the conditions of exemption prescribed by this section or the regulations of the Secretary are not being met. The Secretary may modify or revoke any regulation granting exemption under this Act whenever he deems such action appropriate to effectuate the purposes of this Act.

ENTRY OF MATERIALS INTO OFFICIAL PLANTS

SEC. 16. The Secretary may limit the entry of eggs and egg products and other materials into official plants under such conditions as he may prescribe to assure that allowing the entry of such articles into such plants will be consistent with the purposes of this Act.

IMPORTS

SEC. 17. (a) No restricted eggs capable of use as human food shall be imported into the United States except as authorized by regulations of the Secretary. No egg products capable of use as human food shall be imported into the United States unless they were processed under an approved continuous inspection system of the government of the foreign country of origin or subdivision thereof and are labeled and packaged in accordance with, and otherwise comply with the standards of this Act and regulations issued thereunder applicable to such articles within the United States. All such imported articles shall upon entry into the United States be deemed and treated as domestic articles subject to the other provisions of this Act: *Provided,* That they shall be labeled as required by such regulations for imported articles: *Provided further,* That nothing in this section shall apply to eggs or egg products purchased outside the United States by any individual for consumption by him and members of his hoousehold and his nonpaying guests and employees.

(b) The Secretary may prescribe the terms and conditions for the destruction of all such articles which are imported contrary to this section, unless (1) they are exported by the consignee within the time fixed therefor by the Secretary or (2) in the case of articles which are not in compliance solely because of misbranding, such articles are brought into compliance with this Act under supervision of authorized representatives of the Secretary.

(c) All charges for storage, cartage, and labor with respect to any article which is imported contrary to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter

imported under this Act by or for such owner or consignee.

(d) The importation of any article contrary to this section is prohibited.

REFUSAL OF INSPECTION

SEC. 18. The Secretary (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) may refuse to provide or may withdraw inspection service under this Act with respect to any plant if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this Act, because the applicant or recipient or anyone responsibly connected with the applicant or recipient has been convicted in any Federal or State court, within the previous ten years, of (1) any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food, or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he is a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock, or employee in a managerial or executive capacity.

The determination and order of the Secretary with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the United States court of appeals for the circuit in which such applicant or recipient has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 204 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 194) shall be applicable to appeals taken under this section.

This section shall not affect in any way other provisions of this Act for refusal of inspection services.

ADMINISTRATIVE DETENTION

SEC. 19. Whenever any eggs or egg products subject to the Act, are found by any authorized representative of the Secretary upon any premises and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of this Act or that they are in any other way in violation of this Act, or whenever any restricted eggs capable of use as human food, are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary, such articles may be detained by such representative for a reasonable period but not to exceed twenty days, pending action under section 20 of this Act or notification of any Federal, State, or other governmental authorities having jurisdiction over such articles and shall not be moved by any person from the place at which they are located when so detained until released by such representative. All official marks may be required by such representative to be removed from such articles before they are released unless it appears to the satisfaction of the Secretary that the articles are eligible to retain such marks.

JUDICIAL SEIZURE PROCEEDINGS

SEC. 20. (a) Any eggs or egg products that are or have been processed, bought, sold possessed, used, transported, or offered or received for sale or transportation, in violation of this Act, or in any other way are in violation of this Act; and any restricted eggs, capable of use as human food, in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary; shall be liable to be proceeded against and seized and condemned, at any time, on a complaint in any United States district court or other proper court as provided in section 21 of this Act within the jurisdiction of which the articles are found. If the articles are condemned they shall, after entry of a decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the articles shall not be sold contrary to the provision of this Act, the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which they are sold: *Provided,* That upon the execution and delivery of a good and sufficient bond conditioned that the articles shall not be sold or otherwise disposed of contrary to the provisions of this Act, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which disposal is made, the court may direct that they be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the articles and they are released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant thereof. The proceedings in such cases shall conform, as nearly as may be, to the supplemental rules for certain admiralty and maritime claims, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Act, or other laws.

JURISDICTION

SEC. 21. The United States district courts and the District Court of the Virgin Islands are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act, and shall have jurisdiction in all other cases, arising under this Act, except as provided in section 18 of this Act. All proceedings for the enforcement or to restrain violations of this Act shall be by and in the name of the United States. Subpenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

APPLICABILITY OF OTHER ACTS

SEC. 22. For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Federal Trade Commission Act, as amended (38 Stat. 721–723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraphs (c) through (h) of section 6 and the last paragraph of section 9), and the provisions of subsection 409(1) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409(1)), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred by said sections 9 and 10 of the Federal Trade Commission Act, as amended, on the district courts of the United States may be exercised for the purposes of this Act by any court designated in section 21 of this Act.

RELATION TO OTHER AUTHORITIES

SEC. 23. (a) Requirements within the scope of this Act with respect to premises, facilities, and operations of any official plant which are in addition to or different than those made under this Act may not be imposed by any State or local jurisdiction except that any such jurisdiction may impose recordkeeping and other requirements within the scope of section 11 of this Act, if consistent therewith, with respect to any such plant.

(b) For eggs which have moved or are moving in interstate or foreign commerce, no State or local jurisdiction may (1) require the use of standards of quality, condition, quantity or grade which are in addition to or different than the official standards, or (2) require labeling to show the State or other geographical area of production or origin. Labeling, packaging, or ingredient requirements, in addition to or different than those made under this Act, the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, may not be imposed by any State or local jurisdiction, with respect to egg products processed at any official plant in accordance with the requirements under such Acts. However, any State or local jurisdiction may exercise jurisdiction with respect to eggs and egg products for the purpose of preventing the distribution for human food purposes of any such articles which are outside of such a plant and are in violation of any of said Federal Acts or any State or local law consistent therewith. Otherwise the provisions of this Act shall not invalidate any law or other provisions of any State or other jurisdiction in the absence of a conflict with this Act.

(c) The provisions of this Act shall not affect the applicability of the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act or other Federal laws to eggs, egg products, or other food products or diminish any authority conferred on the Secretary of Health, Education, and Welfare or other Federal officials by such other laws, except that the Secretary of Agriculture shall have exclusive jurisdiction to regulate official plants processing egg products and operations thereof as to all matters within the scope of this Act.

(d) The detainer authority conferred on representatives of the Secretary of Agriculture by section 19 of this Act shall also apply to any authorized representative of the Secretary of Health, Education, and Welfare for the purposes of paragraph (d) of section 5 of this Act, with respect to any eggs or egg products that are outside any plant processing egg products.

COST OF INSPECTION

SEC. 24. The cost of inspection rendered under the requirements of this Act, and other costs of administration of this Act, shall be borne by the United States, except that the cost of overtime and holiday work performed in official plants subject to the provisions of this Act at such rates as the Secretary may determine shall be borne by such official plants. Sums received by the Secretary from official plants under this section shall be available without fiscal year limitation to carry out the purposes of this Act.

APPROPRIATIONS

SEC. 25. Such sums as are necessary to carry out the provisions of this Act are hereby authorized to be appropriated.

SEPARABILITY OF PROVISIONS

SEC. 26. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DAY

SEC. 27. The provisions of this Act with respect to egg products shall take effect six months after enactment. Otherwise, this Act shall take effect eighteen months after enactment.

Mr. AIKEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S BUDGET FOR FISCAL 1971

Mr. MANSFIELD. Mr. President, the President has submitted his budget for fiscal 1971 to the Congress; the days ahead will provide an opportunity for us to consider the emphasis of this administration in the allocation of the Federal resources. Last Friday the minority leader and I exchanged some comments with respect to a newspaper story on defense spending. A very cursory look at the requests of the administration—cursory only because of the limited time available since receiving it—indicates that the requests for defense spending this coming year—1971—will be significantly less than requested last year. However, the new budget requests for defense spending will exceed what the Congress appropriated last year by $300 million if you include defense, $69.3 billion; military construction, $1.4 billion; and military assistance, $454 million, for a total of $71.1 billion. This compares with last year's appropriations totals of $70.8 billion for all three categories, which I think is a significant advance.

Last year, the Nixon administration requested $75.2 billion for defense spending authority exclusive of military construction and military assistance. The Congress appropriated $69.6 billion. The Congress cut the administration's request by $5.6 billion. This year, the administration has requested $69.3 billion. I am hopeful that the Congress will study these requests and adjudge that a similarly large cut may be made this coming fiscal year.

Last year, the Congress cut the military assistance request of the administration by $75 million—limiting it to $350 million. It is not encouraging to see that the new budget requests for military assistance in the foreign aid program has risen $104 million over last year's future to $454 million.

It is not encouraging to note that the new budget authority for military construction is almost $500 million over last year's requests. I think Congress will scrutinize these aspects very closely. Increases will be well justified prior to appropriations by Congress.

The budget does not specify how much of the reduced requests is attributable to reduced spending in Vietnam. It is safe to assume that all or most is. This is most welcome. We can look forward to the day when it is completely eliminated. Any reductions in defense budgeting, however, must be viewed in this context of where spending is reduced and what spending remains.

The personnel level for 1971 is estimated to be 150,000 men less than 1970. This would be a saving of almost $1.5 billion alone.

The funding levels for other programs; for example, procurement and construction of new weapons systems, do not reflect a significant change. In fact, this budget contains "seed" money for many systems that will cost ten of billions in the future years if the initial commitment is made this year.

The expanded ABM will cost in the tens of billions—the money in this year's budget for the expansion is less than $1 billion.

Similar commitments would be made with very small amounts of money this year for programs like the F–14 fighter for the Navy; the F–15 fighter for the Air Force; the AMSA bomber; the AWACS air defense system.

The Defense budget must be viewed in the context of its full impact over the years ahead not just this year. Under the previous administration, my administration, we were just as guilty then as perhaps this administration may be now in getting our noses inside the tent, and the first thing you know the camel is in there taking down the tent and all.

It is encouraging to see the total amount shrink but sometimes these shrinkages prove to be illusory, especially when one considers what will happen in the years ahead. Therefore, a close scrutiny must be made of the budget in all its aspects to assure that the momentum of the past has truly been reversed.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. MANSFIELD. I am delighted to yield to the acting minority leader.

Mr. GRIFFIN. Mr. President, I wish to add that I agree with the majority leader most wholeheartedly in his observation that a close scrutiny must be made of the budget by Congress—as was the case in the last session.

With respect to some of the other comments made by the distinguished majority leader I shall not take issue with the figures and statistics which he cites. If there are any questions concerning the Senator's earlier colloquy which he had with the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT), I shall leave that to the distinguished minority leader.

While all of us realize the cost of government is on the increase, the cost of salaries alone in both the military and civilian aspects of government has been going up rather dramatically. It is most encouraging to me, as I indicated earlier in remarks, that the percentages of spending provided for in the budget have been reordered. As I indicated before, in 1961, 48 percent of the total budget was going for national defense spending, whereas in the fiscal 1971 budget, only 37 percent of the total budget is going for defense spending. That is not to say we are not spending more; we are. But percentagewise, the percentage allocated for defense spending has been reduced dramatically.

At the same time, the allocation of spending for human resources has been going up. In 1961, only 30 percent of the national budget was going for human programs and human resources; today such programs receive 41 percent. That is very encouraging.

To give some idea of the fact that we are cutting back on defense spending, I need only cite the statement made by Defense Secretary Laird not so long ago that the cuts already made and to be made in defense spending are going to reduce military and defense jobs by 1,250,000 workers. Those who ask for cuts in defense spending—and they should be made wherever justified—should remember that when we cut back on defense spending we cut back on jobs. If 1,250,000 workers lose their jobs as a result of defense cuts, that is a pretty dramatic indication that cuts are being made.

I do not like to see increases made in any part of the foreign aid program, but increases in our military assistance program can help our allies help themselves. Such aid would be consistent with the Nixon doctrine that we are not going to be so quick to send our troops into foreign lands but that we are going to help other nations in the free world help themselves.

Accordingly, it may well be that when we scrutinize that particular item, increasing the military assistance we give other nations so they can defend themselves may be consistent with present and future cuts in our own defense spending.

I appreciate the general tenor of the majority leader's statement, and there may be further colloquy with respect to it at a later point.

Mr. MANSFIELD. May I say the President is to be commended for reducing the budget request this year considerably from last year; but may I say also, and I say this most emphatically, the Congress is to be commended for reducing the overall budget request last year by the amount of $7.5 billion for this fiscal year and the defense requests alone by $5.6 billion. Going into next fiscal year Congress cut the Defense budget by $1.5 billion. So I think with the administration and Congress working together we can make a very effective combination in reducing expenditures and in cutting appropriations; and I only hope the tandem relationship which worked so well last year will continue to work in the next fiscal year.

Mr. GRIFFIN. Mr. President, will the Senator yield for a further observation?

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. I do not like to be unduly argumentative, but there is this debate that has been going on about whether Congress cut the President's

91ST CONGRESS
2D SESSION

S. 2116

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1970

Referred to the Committee on Agriculture

AN ACT

To provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Egg Products Inspection Act".

LEGISLATIVE FINDING

SEC. 2. Eggs and egg products are an important source of the Nation's total supply of food, and are used in food in various forms. They are consumed throughout the Na-

tion and the major portion thereof moves in interstate or foreign commerce. It is essential, in the public interest, that the health and welfare of consumers be protected by the adoption of measures prescribed herein for assuring that eggs and egg products distributed to them and used in products consumed by them are wholesome, otherwise not adulterated, and properly labeled and packaged. Lack of effective regulation for the handling or disposition of unwholesome, otherwise adulterated, or improperly labeled or packaged egg products and certain qualities of eggs is injurious to the public welfare and destroys markets for wholesome, not adulterated, and properly labeled and packaged eggs and egg products and results in sundry losses to producers and processors, as well as injury to consumers. Unwholesome, otherwise adulterated, or improperly labeled or packaged products can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged products, to the detriment of consumers and the public generally. It is hereby found that all egg products and the qualities of eggs which are regulated under this Act are either in interstate or foreign commerce, or substantially affect such commerce, and that regulation by the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, and cooperation by the States and other jurisdictions, as contemplated by

this Act, are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers.

DECLARATION OF POLICY

SEC. 3. It is hereby declared to be the policy of the Congress to provide for the inspection of certain egg products, restrictions upon the disposition of certain qualities of eggs, and uniformity of standards for eggs, and otherwise regulate the processing and distribution of eggs and egg products as hereinafter prescribed to prevent the movement or sale for human food, of eggs and egg products which are adulterated or misbranded or otherwise in violation of this Act.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) The term "adulterated" applies to any egg or egg product under one or more of the following circumstances—

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2) (A) if it bears or contains any added poisonous or added deleterious substance (other than one which is

(i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

(C) if it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(D) if it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act: *Provided*, That an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the Secretary in official plants;

(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(4) if it has been prepared, packaged, or held under insanitary conditions whereby it may have become

contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(b) The term "capable of use as human food" shall apply to any egg or egg product, unless it is denatured, or otherwise identified, as required by regulations prescribed by the Secretary to deter its use as human food.

(c) The term "commerce" means interstate, foreign, or intrastate commerce.

(d) The term "container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(1) The term "immediate container" means any consumer package; or any other container in which egg products, not consumer packaged, are packed.

(2) The term "shipping container" means any container used in packaging a product packed in an immediate container.

(e) The term "egg handler" means any person who engages in any business in commerce which involves buying or selling any eggs (as a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food.

(f) The term "egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products.

(g) The term "egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

(1) The term "check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(2) The term "clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(3) The term "dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(4) The term "incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(5) The term "inedible" means eggs of the following descriptions: black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(6) The term "leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that

the egg contents are exposed or are exuding or free to exude through the shell.

(7) The term "loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(8) The term "restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(h) The term "Fair Packaging and Labeling Act" means the Act so entitled, approved November 3, 1966 (80 Stat. 1296), and Acts amendatory thereof or supplementary thereto.

(i) The term "Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

(j) The term "inspection" means the application of such inspection methods and techniques as are deemed necessary by the responsible Secretary to carry out the provisions of this Act.

(k) The term "inspector" means:

(1) any employee or official of the United States

Government authorized to inspect eggs or egg products under the authority of this Act; or

(2) any employee or official of the government of any State or local jurisdiction authorized by the Secretary to inspect eggs or egg products under the authority of this Act, under an agreement entered into between the Secretary and the appropriate State or other agency.

(l) The term "misbranded" shall apply to egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the Secretary under section 7 of this Act.

(m) The term "official certificate" means any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person performing official functions under this Act.

(n) The term "official device" means any device prescribed or authorized by the Secretary for use in applying any official mark.

(o) The term "official inspection legend" means any symbol prescribed by regulations of the Secretary showing that egg products were inspected in accordance with this Act.

(p) The term "official mark" means the official inspec-

tion legend or any other symbol prescribed by regulations of the Secretary to identify the status of any article under this Act.

(q) The term "official plant" means any plant, as determined by the Secretary, at which inspection of the processing of egg products is maintained by the Department of Agriculture under the authority of this Act.

(r) The term "official standards" means the standards of quality, grades, and weight classes for eggs, in effect upon the effective date of this Act, or as thereafter amended, under the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 7 U.S.C. 1621 et seq.).

(s) The term "pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful viable micro-organisms by such processes as may be prescribed by regulations of the Secretary.

(t) The term "person" means any individual, partnership, corporation, association, or other business unit.

(u) The terms "pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" shall have the same meaning for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act.

(v) The term "plant" means any place of business where egg products are processed.

(w) The term "processing" means manufacturing egg

products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(x) The term "Secretary" means the Secretary of Agriculture or his delegate.

(y) The term "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia.

(z) The term "United States" means the States.

INSPECTION, REINSPECTION, CONDEMNATION

SEC. 5. (a) For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any egg product which is capable of use as human food and is misbranded or adulterated, the Secretary shall, whenever processing operations are being conducted, cause continuous inspection to be made, in accordance with the regulations promulgated under this Act, of the processing of egg products, in each plant processing egg products for commerce, unless exempted under section 15 of this Act. Without restricting the application of the preceding sentence to other kinds of establishments within its provisions, any food manufacturing establishment, institution, or restaurant which uses any eggs that do not meet the requirements of paragraph (a) (1) of section 15 of this Act in the preparation of any articles for human food shall be deemed to be a

plant processing egg products, with respect to such operations.

(b) The Secretary, at any time, shall cause such retention, segregation, and reinspection as he deems necessary of eggs and egg products capable of use as human food in each official plant.

(c) Eggs and egg products found to be adulterated at official plants shall be condemned and, if no appeal be taken from such determination of condemnation, such articles shall be destroyed for human food purposes under the supervision of an inspector: *Provided,* That articles which may by reprocessing be made not adulterated need not be condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the eggs or egg products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the Secretary determines that the appeal is frivolous. If the determination of condemnation is sustained, the eggs or egg products shall be destroyed for human food purposes under the supervision of an inspector.

(d) The Secretary shall cause such other inspections to be made of the business premises, facilities, inventory, operations, and records of egg handlers, and the records

and inventory of other persons required to keep records under section 11 of this Act, as he deems appropriate to assure that only eggs fit for human food are used for such purpose, and otherwise to assure compliance by egg handlers and other persons with the requirements of section 8 of this Act, except that the Secretary of Health, Education, and Welfare shall cause such inspections to be made as he deems appropriate to assure compliance with such requirements at food manufacturing establishments, institutions, and restaurants, other than plants processing egg products. Representatives of said Secretaries shall be afforded access to all such places of business for purposes of making the inspections provided for in this Act.

SANITATION, FACILITIES, AND PRACTICES

SEC. 6. (a) Each official plant shall be operated in accordance with such sanitary practices and shall have such premises, facilities, and equipment as are required by regulations promulgated by the Secretary to effectuate the purposes of this Act, including requirements for segregation and disposition of restricted eggs.

(b) The Secretary shall refuse to render inspection to any plant whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

PASTEURIZATION AND LABELING OF EGG PRODUCTS AT OFFICIAL PLANTS

SEC. 7. (a) Egg products inspected at any official plant under the authority of this Act and found to be not adulterated shall be pasteurized before they leave the official plant, except as otherwise permitted by regulations of the Secretary, and shall at the time they leave the official plant, bear in distinctly legible form on their shipping containers or immediate containers, or both, when required by regulations of the Secretary, the official inspection legend and official plant number, of the plant where the products were processed, and such other information as the Secretary may require by regulations to describe the products adequately and to assure that they will not have false or misleading labeling.

(b) No labeling or container shall be used for egg products at official plants if it is false or misleading or has not been approved as required by the regulations of the Secretary. If the Secretary has reason to believe that any labeling or the size or form of any container in use or proposed for use with respect to egg products at any official plant is false or misleading in any particular, he may direct that such use be withheld unless the labeling or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to

use the labeling or container does not accept the determination of the Secretary, such person may request a hearing, but the use of the labeling or container shall, if the Secretary so directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the United States court of appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162, as amended; 7 U.S.C. 194), shall be applicable to appeals taken under this section.

PROHIBITED ACTS

SEC. 8. (a) (1) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in any business in commerce any restricted eggs, capable of use as human food, except as authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(2) No egg handler shall possess with intent to use, or use, any restricted eggs in the preparation of human food for commerce except that such eggs may be so pos-

sessed and used when authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(b) (1) No person shall process any egg products for commerce at any plant except in compliance with the requirements of this Act.

(2) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in commerce any egg products required to be inspected under this Act unless they have been so inspected and are labeled and packaged in accordance with the requirements of section 7 of this Act.

(3) No operator of any official plant shall fail to comply with any requirements of paragraph (a) of section 6 of this Act or the regulations thereunder.

(4) No operator of any official plant shall allow any egg products to be moved from such plant if they are adulterated or misbranded and capable of use as human food.

(c) No person shall violate any provision of section 10, 11, or 17 of this Act.

(d) No person shall—

(1) manufacture, cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark

or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary;

(2) forge or alter any official device, mark, or certificate;

(3) without authorization from the Secretary, use any official device, mark, or certificate, or simulation thereof, or detach, deface, or destroy any official device or mark; or use any labeling or container ordered to be withheld from use under section 7 of this Act after final judicial affirmance of such order or expiration of the time for appeal if no appeal is taken under said section.

(4) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(5) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label, or any eggs or egg products bearing any counterfeit, simulated, forged, or improperly altered official mark;

(6) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary;

(7) knowingly represent that any article has been inspected or exempted, under this Act, when, in fact, it has, respectively, not been so inspected or exempted;

(8) refuse access, at any reasonable time, to any representative of the Secretary of Agriculture or the Secretary of Health, Education, and Welfare, to any plant or other place of business subject to inspection under any provisions of this Act.

(e) No person, while an official or employee of the United States Government or any State or local governmental agency, or thereafter, shall use to his own advantage, or reveal other than to the authorized representatives of the United States Government or any State or other government in their official capacity, or as ordered by a court in a judicial proceeding, any information acquired under the authority of this Act concerning any matter which is entitled to protection as a trade secret.

FEDERAL AND STATE COOPERATION

SEC. 9. The Secretary shall, whenever he determines that it would effectuate the purposes of this Act, cooperate with appropriate State and other governmental agencies, in carrying out any provisions of this Act. In carrying out the provisions of this Act, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any such

agency commissioned by him for such purpose. The Secretary shall reimburse the States and other agencies for the costs incurred by them in such cooperative programs.

EGGS AND EGG PRODUCTS NOT INTENDED FOR HUMAN FOOD

SEC. 10. Inspection shall not be provided under this Act at any plant for the processing of any egg products which are not intended for use as human food, but such articles, prior to their offer for sale or transportation in commerce, shall be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation, in commerce, any restricted eggs or egg products which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary.

RECORD AND RELATED REQUIREMENTS FOR PROCESSORS OF EGGS AND EGG PRODUCTS AND RELATED INDUSTRIES

SEC. 11. For the purpose of enforcing the provisions of this Act and the regulations promulgated thereunder, all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in commerce or holding such articles so received, and all egg handlers, shall maintain such records showing, for such time and in such form and manner, as the Secretary of Agriculture or the Secretary of

Health, Education, and Welfare may prescribe, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of a duly authorized representative of either of said Secretaries, permit him at reasonable times to have access to and to copy all such records.

PENALTIES

SEC. 12. (a) Any person who commits any offense prohibited by section 8 of this Act shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine, but if such violation involves intent to defraud, or any distribution or attempted distribution of any article that is known to be adulterated (except as defined in section 4 (a) (8) of this Act), such person shall be subject to imprisonment for not more than three years or a fine of not more than $10,000, or both. When construing or enforcing the provisions of section 8, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(b) No carrier or warehouseman shall be subject to the

penalties of this Act, other than the penalties for violation of section 11 of this Act or paragraph (c) of this section 12, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier or warehouseman of eggs or egg products owned by another person unless the carrier or warehouseman has knowledge, or is in possession of facts which would cause a reasonable person to believe that such eggs or egg products were not eligible for transportation under, or were otherwise in violation of, this Act, or unless the carrier or warehouseman refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such eggs or egg products and copies of all documents, if there be any, pertaining to the delivery of the eggs or egg products to, or by, such carrier or warehouseman.

(c) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such act, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his

official duties under this Act shall be punished as provided undersections 1111 and 1112 of title 18, United States Code.

REPORTING OF VIOLATIONS

SEC. 13. Before any violation of this Act is reported by the Secretary of Agriculture or Secretary of Health, Education, and Welfare to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this Act shall be construed as requiring the Secretary of Agriculture or Secretary of Health, Education, and Welfare to report for criminal prosecution violations of this Act whenever he believes that the public interest will be adequately served and compliance with the Act obtained by a suitable written notice of warning.

REGULATIONS AND ADMINISTRATION

SEC. 14. The Secretary shall promulgate such rules and regulations as he deems necessary to carry out the purposes or provisions of this Act, and shall be responsible for the administration and enforcement of this Act except as otherwise provided in paragraph (d) of section 5 of this Act.

EXEMPTIONS

SEC. 15. (a) The Secretary may, by regulation and under such conditions and procedures as he may prescribe, exempt from specific provisions of this Act—

(1) the sale, transportation, possession, or use of eggs which contain no more restricted eggs than are allowed by the tolerances in the official standards of United States consumer grades for shell eggs;

(2) the processing of egg products at any plant where the facilities and operating procedures meet such sanitary standards as may be prescribed by the Secretary, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of United States consumer grades for shell eggs, and the egg products processed at such plant;

(3) the sale of eggs by any poultry producer from his own flocks directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(4) the processing of egg products by any poultry producer from eggs of his own flocks' production for sale of such products directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the egg products so processed when handled in accordance with this paragraph;

(5) the sale of eggs by shell egg packers on his own premises directly to household consumers for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph; and

(6) for such period of time during the initiation of operations under this Act as the Secretary determines that it is impracticable to provide inspection, the processing of egg products at any class of plants and the egg products processed at such plants.

(b) The Secretary may immediately suspend or terminate any exemption under paragraph (a) (2) or (6) of this section at any time with respect to any person, if the conditions of exemption prescribed by this section or the regulations of the Secretary are not being met. The Secretary may modify or revoke any regulation granting exemption under this Act whenever he deems such action appropriate to effectuate the purposes of this Act.

ENTRY OF MATERIALS INTO OFFICIAL PLANTS

SEC. 16. The Secretary may limit the entry of eggs and egg products and other materials into official plants under such conditions as he may prescribe to assure that allowing the entry of such articles into such plants will be consistent with the purposes of this Act.

IMPORTS

SEC. 17. (a) No restricted eggs capable of use as human food shall be imported into the United States except as authorized by regulations of the Secretary. No egg products capable of use as human food shall be imported into the United States unless they were processed under an approved continuous inspection system of the government of the foreign country of origin or subdivision thereof and are labeled and packaged in accordance with, and otherwise comply with the standards of this Act and regulations issued thereunder applicable to such articles within the United States. All such imported articles shall upon entry into the United States be deemed and treated as domestic articles subject to the other provisions of this Act: *Provided,* That they shall be labeled as required by such regulations for imported articles: *Provided further,* That nothing in this section shall apply to eggs or egg products purchased outside the United States by any individual for consumption by him and members of his household and his nonpaying guests and employees.

(b) The Secretary may prescribe the terms and conditions for the destruction of all such articles which are imported contrary to this section, unless (1) they are exported by the consignee within the time fixed therefor by the Secretary or (2) in the case of articles which are not in compliance solely because of misbranding, such articles are

brought into compliance with this Act under supervision of authorized representatives of the Secretary.

(c) All charges for storage, cartage, and labor with respect to any article which is imported contrary to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter imported under this Act by or for such owner or consignee.

(d) The importation of any article contrary to this section is prohibited.

REFUSAL OF INSPECTION

SEC. 18. The Secretary (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) may refuse to provide or may withdraw inspection service under this Act with respect to any plant if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this Act, because the applicant or recipient or anyone responsibly connected with the applicant or recipient has been convicted in any Federal or State court, within the previous ten years, of (1) any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with trans-

actions in food, or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he is a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock, or employee in a managerial or executive capacity.

The determination and order of the Secretary with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the United States court of appeals for the circuit in which such applicant or recipient has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 204 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 194) shall be applicable to appeals taken under this section.

This section shall not affect in any way other provisions of this Act for refusal of inspection services.

ADMINISTRATIVE DETENTION

SEC. 19. Whenever any eggs or egg products subject to the Act, are found by any authorized representative of the Secretary upon any premises and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of this Act or that they are in any other way in violation of this Act, or whenever any restricted eggs capable of use as human food, are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary, such articles may be detained by such representative for a reasonable period but not to exceed twenty days, pending action under section 20 of this Act or notification of any Federal, State, or other governmental authorities having jurisdiction over such articles and shall not be moved by any person from the place at which they are located when so detained until released by such representative. All official marks may be required by such representative to be removed from such articles before they are released unless it appears to the satisfaction of the Secretary that the articles are eligible to retain such marks.

JUDICIAL SEIZURE PROCEEDINGS

SEC. 20. (a) Any eggs or egg products that are or have been processed, bought, sold, possessed, used, transported, or

offered or received for sale or transportation, in violation of this Act, or in any other way are in violation of this Act; and any restricted eggs, capable of use as human food, in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary; shall be liable to be proceeded against and seized and condemned, at any time, on a complaint in any United States district court or other proper court as provided in section 21 of this Act within the jurisdiction of which the articles are found. If the articles are condemned they shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the articles shall not be sold contrary to the provision of this Act, the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which they are sold: *Provided,* That upon the execution and delivery of a good and sufficient bond conditioned that the articles shall not be sold or otherwise disposed of contrary to the provisions of this Act, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which disposal is made, the court may direct that they be delivered to the owner thereof subject to such supervision by authorized

representatives of the Secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the articles and they are released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant thereof. The proceedings in such cases shall conform, as nearly as may be, to the supplemental rules for certain admiralty and maritime claims, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Act, or other laws.

JURISDICTION

SEC. 21. The United States district courts and the District Court of the Virgin Islands are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act, and shall have jurisdiction in all other cases, arising under this Act, except as provided in section 18 of this Act. All proceedings for the enforcement or to restrain violations of this Act shall be by and in the name of the United States. Subpenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

APPLICABILITY OF OTHER ACTS

SEC. 22. For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Federal Trade Commission Act, as amended (38 Stat. 721–723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraphs (c) through (h) of section 6 and the last paragraph of section 9), and the provisions of subsection 409 (l) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409 (l)), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred by said sections 9 and 10 of the Federal Trade Commission Act, as amended, on the district courts of the United States may be exercised for the purposes of this Act by any court designated in section 21 of this Act.

RELATION TO OTHER AUTHORITIES

SEC. 23. (a) Requirements within the scope of this Act with respect to premises, facilities, and operations of any official plant which are in addition to or different than those

made under this Act may not be imposed by any State or local jurisdiction except that any such jurisdiction may impose recordkeeping and other requirements within the scope of section 11 of this Act, if consistent therewith, with respect to any such plant.

(b) For eggs which have moved or are moving in interstate or foreign commerce, no State or local jurisdiction may (1) require the use of standards of quality, condition, quantity or grade which are in addition to or different than the official standards, or (2) require labeling to show the State or other geographical area of production or origin. Labeling, packaging, or ingredient requirements, in addition to or different than those made under this Act, the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, may not be imposed by an State or local jurisdiction, with respect to egg products processed at any official plant in accordance with the requirements under such Acts. However, any State or local jurisdiction may exercise jurisdiction with respect to eggs and egg products for the purpose of preventing the distribution for human food purposes of any such articles which are outside of such a plant and are in violation of any of said Federal Acts or any State or local law consistent therewith. Otherwise the provisions of this Act shall not invalidate any law or other provisions of any State or other jurisdiction in the absence of a conflict with this Act.

(c) The provisions of this Act shall not affect the applicability of the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act or other Federal laws to eggs, egg products, or other food products or diminish any authority conferred on the Secretary of Health, Education, and Welfare or other Federal officials by such other laws, except that the Secretary of Agriculture shall have exclusive jurisdiction to regulate official plants processing egg products and operations thereof as to all matters within the scope of this Act.

(d) The detainer authority conferred on representatives of the Secretary of Agriculture by section 19 of this Act shall also apply to any authorized representative of the Secretary of Health, Education, and Welfare for the purposes of paragraph (d) of section 5 of this Act, with respect to any eggs or egg products that are outside any plant processing egg products.

COST OF INSPECTION

SEC. 24. The cost of inspection rendered under the requirements of this Act, and other costs of administration of this Act, shall be borne by the United States, except that the cost of overtime and holiday work performed in official plants subject to the provisions of this Act at such rates as the Secretary may determine shall be borne by such official plants. Sums received by the Secretary from official

plants under this section shall be available without fiscal year limitation to carry out the purposes of this Act.

APPROPRIATIONS

SEC. 25. Such sums as are necessary to carry out the provisions of this Act are hereby authorized to be appropriated.

SEPARABILITY OF PROVISIONS

SEC. 26. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DAY

SEC. 27. The provisions of this Act with respect to egg products shall take effect six months after enactment. Otherwise, this Act shall take effect eighteen months after enactment.

Passed the Senate February 2, 1970.

Attest: FRANCIS R. VALEO,

Secretary.

91ST CONGRESS
2D SESSION

S. 2116

AN ACT

To provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act; and for other purposes.

FEBRUARY 3, 1970
Referred to the Committee on Agriculture

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

For actions of December 2, 1970
91st-2nd; No. 192

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HIGHLIGHTS: Conferees agreed to file report on agricultural appropriations bill.
Senate passed bill granting trust title to national forest lands to Taos Indians.
Senate appointed conferees on water carrier mixing bill and highway construction bill.
House committee reported animal welfare bill.
House committee voted to report egg products inspection bill.
Rep. Schwengel criticized "unfair competitive advantage" Farm Credit Administration has in farm lending programs.

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

HOUSE

1. APPROPRIATIONS. Conferees agreed to file (but did not actually file) a conference report on H.R. 17923, the agricultural appropriations bill for FY 71. p. D1221

2. AGRICULTURE COMMITTEE ACTION.
   Reported with amendment H.R. 19846, proposed Animal Welfare Act (H. Rept. 91-1651). p. H11082
   H. Com. Voted to report (but did not actually report) H.R. 19888 amended, proposed Egg Products Inspection Act. p. D1219

3. COMMITTEE ACTION.
   Committee on Rules reported H. Res. 1290, providing for the consideration of S. 3070, plant variety protection; and H. Res. 1291, providing for the consideration of H.R. 18582, Food stamp amendments. p. H11082
   Committee on Public Works reported S. 1, providing for equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs (H. Rept. 91-1656). p. H11082
   Committee on Public Works voted to report (but did not actually report) H.R. 19877 amended, an omnibus rivers, harbors, and flood control bill. p. D1220

4. HOUSING AND URBAN DEVELOPMENT. Concluded general debate on H.R. 19436, proposed Housing and Urban Development Act of 1970, and began reading the bill for amendments. H. Res. 1271, the rule providing for consideration, was adopted earlier. pp. H10998-11053

5. FARM CREDIT ADMINISTRATION. Rep. Schwengel expressed fear that "The farm credit system threatens to become a monopoly disguised as a farmer-owned cooperative" and urged the restoration of "fair competition to the rural credit field". pp. H11078-91

SENATE

6. CARSON NATIONAL FOREST; TAOS INDIANS. Passed H.R. 471, granting trust title to the Taos Indians of 48,000 acres in the Blue Lake area of Carson National Forest, New Mexico. pp. S19220-44

7. WATER CARRIER MIXING RULE; HIGHWAY CONSTRUCTION. Conferees appointed on H.R. 8298, to eliminate certain restrictions relating to water carriers of bulk commodities, and on S. 4418, proposed Federal-Aid Highway Amendments of 1970. pp. S19188-9; S19244-52

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

For actions of December 3, 1970
91st-2nd; No. 116

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HIGHLIGHTS: House committee reported egg products inspection bill.
Rep. Melcher criticized "the administration's deliberate lower farm price policies."
Rep. Mahon included current release on civilian personnel report.
Senate committee reported Water Bank bill; bill authorizing milk, tomato, and potato promotion; and bill amending peanut marketing quota provisions.
Sen. Packwood lauded ACP achievements and noted need to eliminate agriculture-related pollution.

HOUSE

1. FARM PRICES. Rep. Melcher warned "we are rushing toward an economic crisis in agriculture" as "the administration's deliberate lower farm price policies drive prices and the parity ratio down to the levels of the great depression of the thirties." pp. H11120-1

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UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250
OFFICIAL BUSINESS

2. BILLS REPORTED.

Committee on Agriculture reported, with amendments, H.R. 19888, providing for the inspection of certain egg products (H. Rept. 91-1670). p. H11145

Committee on Public Works reported, with amendment, H.R. 19877, an omnibus rivers, harbors, and flood control bill (H. Rept. 91-1665). p. H11145

Committee on Post Office and Civil Service filed a report "Improved Manpower Management in the Federal Government" (H. Rept. 91-1657). p. H11145

3. LEGISLATIVE PROGRAM. The following bills will be among those considered Monday, Dec. 7, on the Consent Calendar:

H.R. 19877, omnibus rivers, harbors, and flood control bill;
H.R. 19846, proposed Animal Welfare Act of 1970;
H.R. 17582, to amend peanut marketing quota provisions;
S. 1079, Susquehanna River Basin Compact;
S. 1, equitable land acquisition and dislocation assistance policies;
H.R. 15188, penalty for shooting at certain animals from an aircraft;
H.R. 17436, to provide for a National Environmental Data Bank;
H.R. 19576, to establish the National Advisory Committee on the Oceans and Atmosphere. pp. H11118-9

4. HOUSING AND URBAN DEVELOPMENT. Passed H.R. 19436 after adopting, in addition to other amendments, an amendment that extends the log export amendment for 2 additional years. pp. H11088-11111

5. ADJOURNED until Monday, Dec. 7. p. H11145

SENATE

6. APPROPRIATIONS; SUPPLEMENTAL APPROPRIATIONS. Passed H.R. 17755, FY 1971 appropriations for the Department of Transportation, adopting all committee amendments, and two additional amendments eliminating funds for the SST program and deleting obligational authority restriction on highway beautification. pp. S19327-95

Received Proposed Supplemental Appropriations for the FY Ending June 30, 1971, from the President (S. Doc. No. 91-114); to Committee on Appropriations. pp. S19283-4

7. WATER BANK; PEANUT ACREAGE ALLOTMENTS; RESEARCH & PROMOTION PROGRAMS FOR MILK, POTATOES AND TOMATOES. Committee on Agriculture and Forestry reported without amendment the following bills:

H.R. 15770, to preserve and improve wildlife habitat and water conservation, (S. Rept. 91-1393);
S. 4560, establishing a research and promotion program for milk, potatoes and tomatoes (S. Rept. 91-1400); and
S. 4561, establishing permanent authority for the sale and transfer of peanut acreage allotments (S. Rept. 91-1401). p. S19284

91st Congress } HOUSE OF REPRESENTATIVES { Report
2d Session } { No. 91-1670

EGG PRODUCTS INSPECTION ACT

December 3, 1970.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. Poage, from the Committee on Agriculture, submitted the following

REPORT

[To accompany H.R. 19888]

The committee on Agriculture, to whom was referred the bill (H.R. 19888) to provide for the inspection of certain egg products by the U.S. Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; cooperation with State agencies in administration of this act; and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 24, lines 13 and 14, strike out the words "less than five hundred hen flock." and insert in lieu thereof the following: "a flock of 3,000 or less hens.".

GENERAL STATEMENT

This proposal is designed to strengthen the ability of Federal and State governments to protect the Nation's consumers and to provide an environment where the egg products and shell egg industries will continue to flourish. Thus, a concerted effort will be made to assure that eggs and egg products (i.e. liquid, frozen, or dried eggs) are safe and wholesome for consumers.

This bill prohibits the distribution of unwholesome shell eggs or their use in food products, and provides for mandatory continuous inspection of egg product processing plants.

It is applicable to intrastate as well as interstate and foreign commerce.

It provides for exemptions, identification of the egg products not intended for human food, recordkeeping, and Federal-State cooperation. States would generally be prohibited from imposing require-

ments conflicting with the bill, or certain other Federal laws. Imports would have to meet the same requirements as domestic products.

The cost of inspection, except for overtime and holiday work in official plants, would be borne by the United States. At present about 75 percent of the egg products are produced in plants operating under an USDA voluntary inspection program on a user-fee basis. The cost to USDA to carry out the bill would be about $5 million annually.

BACKGROUND

The following statement by Assistant Secretary of Agriculture Richard Lyng sets forth the background, purpose, and need for this legislation.

STATEMENT OF RICHARD E. LYNG, ASSISTANT SECRETARY OF AGRICULTURE, ACCOMPANIED BY GEORGE GRANGE, DEPUTY ADMINISTRATOR, CONSUMER AND MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. LYNG. Thank you, Mr. Chairman and members.

Mr. Chairman and members of the committee, I would like to urge favorable action by this committee on H.R. 16092, a proposal to provide for the inspection of certain egg products and to restrict the disposition of certain qualities of eggs. This bill has the full support of the Department of Agriculture.

This proposal is designed to strengthen the ability of Federal and State governments to protect the Nation's consumers and to provide an environment where the egg products and shell egg industries will continue to flourish. Thus, we must make every effort to assure that eggs and egg products, that is, liquid, frozen, or dried eggs, are safe and wholesome for consumers.

Clean, sound shell eggs are not a public health problem. These eggs are marketed for retail sale under the various State egg laws which generally provide for proper grading and sizing and accurate labeling. States do an adequate job of surveillance at the retail levels to check these eggs for compliance with their requirements. However, leaking, cracked, or checked and dirty eggs do pose a public health hazard. Such eggs can carry salmonellae and other bacteria. Salmonellosis is one of the major food-borne illnesses affecting human beings. Salmonellae and other pathogenic bacteria are carried on the shell of the dirty egg and may result in contamination when the egg is broken. In addition, if the shell is cracked or broken, bacteria may enter the egg.

Incubator rejects—eggs which have been subjected to incubation and have been removed during hatching operations as infertile or otherwise unhatchable—and loss or inedible eggs are unfit for human food and should be destroyed or denatured to prevent their use as human food. While these types are not sold into consuming channels in shell form, they could move to breaking plants to be incorporated in liquid, frozen, or dried egg products or directly to food manufacturers for use in their products.

The U.S. Department of Agriculture conducts a voluntary egg products inspection program which requires continuous resident inspection. In fiscal year 1970, approximately 80 percent of the total national production of egg products were produced in about 100 plants operating under the USDA program. Volume of all inspected products was about 608 million pounds. About 4.0 percent or almost 23 million pounds of the liquid product processed in official USDA plants were segregated as not fit for human food and were destroyed or decharacterized. Unscrupulous egg products processors and food manufacturers can use undesirable eggs and produce products that are difficult to distinguish from edible, wholesome products. This is done through the use of deodorants, filtering devices, flavoring ingredients, or pasteurization. Consequently, the use of undesirable raw material for breaking stock cannot always be detected through end-product testing nor adequately controlled by spot check inspection.

Most shell egg packing plants send their dirty and cracked eggs to breaking plants. Some shell egg packing plants also send their inedible and loss eggs to breaking plants. If such eggs are used in the manufacture of egg products in plants which do not have continuous USDA inspection, there is no assurance that an adequate job of segregating or processing was performed. Even if these plants had modern equipment and facilities, including pasteurizers, the products they produce can contain loss and inedible eggs which are unfit for human food. Due primarily to the cost of the raw material, noninspected product can compete unfairly with wholesome inspected egg products and may sell from 2 to 10 cents per pound, or up to 33 percent less than inspected product. Thus, food manufacturers and other users of egg products have a strong economic incentive to patronize these sources of supply.

A questionnaire was sent to the States in 1968 to find out the nature and scope of their existing legislative and inspection programs for eggs and egg products. There has been no substantial change in the data received from them since that time. Information received from the States for fiscal year 1968 indicated that there were about 700 non-USDA operations producing egg products. Total annual production from these plants amounted to approximately 213 million pounds. Over 600 of these plants were relatively small and produced only 37 million pounds, or less than 5 percent of the 800 million pounds of egg products produced in the United States during that period.

All States had shell egg laws dealing primarily with the grading, sizing, and labeling of eggs. Some of these laws, however, did not prohibit the movement of checks, leakers, and dirty eggs into consumption channels, such as to consumers, institutions and restaurants.

Only 18 States had specific egg products laws, and no State required continuous inspection. Only eight States required

pasteurization of egg products. Five States did not have any requirements for egg products. All other State egg products inspection programs were conducted either under general food laws or other nonspecific laws, which may also include a voluntary inspection program.

Legislation is needed to provide mandatory inspection of egg products and to prevent the sale of eggs that could pose a health hazard. Because of the universal use of eggs and egg products in manufacturing a host of food products, nearly everyone consumes eggs in one form or another every day.

At present, there are no laws requiring official inspection of egg products moving in interstate commerce as there are for meat and meat products and poultry and poultry products.

As you know, recent legislation has extended Federal meat and poultry inspection to cover meat and poultry products in intrastate commerce if the State programs are not at least equal to the Federal program.

In line with these and other measures to protect consumers, we believe the proposed bill would insure the safety and wholesomeness of our eggs and egg products through the following provisions:

Plants processing egg products for interstate, foreign, or intrastate commerce would be required to operate under continuous inspection of USDA unless they processed only eggs meeting consumer grades. At present grade standards, this minimum requirement would be U.S. Consumer Grade B.

USDA would administer inspection provisions in plants processing egg products on a continuous-inspection basis, would cooperate with States in administering such provisions, and fully reimburse the States for their assistance.

Egg products processing plants breaking only eggs meeting consumer grades would not be required to have continuous inspection, but would have to meet sanitation requirements established by the Secretary with respect to facilities and operating procedures. USDA would determine compliance of these plants on a periodic-check basis, and such plants would be subject to applicable local, State, and other Federal laws.

Bakeries, other food manufacturers, institutions, and restaurants which process egg products incidental to the preparation of other articles of human food would not be required to have continuous inspection if they use only eggs meeting consumer grades. The Food and Drug Administration would be responsible for enforcement of the law at such establishments. If such establishments elected to break ungraded or poor quality eggs, they would be considered in the same category as egg products processing plants and would have to come under continuous Federal inspection where proper segregation and processing of eggs could be made.

Restricted eggs could be imported into the United States only as authorized by the regulations of the Secretary. Egg

products capable of use as human food could be imported only if they comply with the standards of the act and the regulations for such articles within the United States. We interpret this to mean that egg products from abroad would have to come from plants under a continuous inspection system at least equal to ours and approved by a USDA review official. The cost of the continuous foreign inspection program would be borne by the foreign country. Because of the difficulty of maintaining a reliable review of periodic surveillance programs abroad, we would not accept products from plants not operated under continuous inspection. Egg products imports represent less than one-fourth of 1 percent of the total egg products used in the United States. In 1969, imports were about 1½ million pounds.

Specifically, to prevent the movement of unwholesome and potentially hazardous eggs to consumers, institutions, restaurants, et cetera, the bill would:

Prohibit producers, shell egg plant operators, and other persons from selling or offering for sale, or distributing in interstate, foreign, or intrastate commerce, any restricted eggs (dirty, check, leaker, incubator reject, loss, or inedible eggs) capable of use as human food, except as authorized by regulations of the Secretary. Such regulations, for example, could provide that ungraded eggs could move from producers to egg grading plants and that dirty and checked eggs could move to official USDA egg products processing plants for proper segregation and processing.

Prohibit persons engaged in any business involving, buying, or selling eggs or otherwise using eggs in preparing human food products from using or possessing with intent to use any restricted eggs in the preparation of human food, except as permitted by regulations of the Secretary.

Treat all eggs and egg products as capable of use as human food unless these products are denatured or identified as required by the regulations. It would also require the maintenance of records by specified classes of persons, including persons buying or selling eggs or processing egg products or otherwise using eggs in the preparation of human food products, and provide for the examination of such records by the Secretaries of Agriculture and Health, Education, and Welfare.

To insure uniformity of labeling, standards, and other provisions and enhance the free movement of eggs and egg products in interstate commerce, the bill would provide that no State or local jurisdiction could impose labeling, packaging, or ingredient requirements for officially inspected egg products which are in addition to or different than those imposed under the bill or the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act. Also, no State or local jurisdiction could restrict the entry of shell eggs to only those meeting certain of the Federal grade standards or weight classes or otherwise require the use of shell egg standards of quality, condition, quantity, or grade in addition

to or different from the Federal standards. In addition, no State or local jurisdiction could require labeling to show the State or other geographical area of production or origin for shell eggs in interstate or foreign commerce. Most States have closely patterned their requirements for standards, grades, and weight classes after the official standards used by the U.S. Department of Agriculture. A few States have different requirements. This has been of great concern to producers and handlers in States shipping their eggs into these areas, as they are virtually grading under two sets of requirements—one the requirements for the State of origin, and two, for the State where the eggs are received. Such barriers hinder orderly marketing and tend to increase marketing costs. These burdens should be eliminated. Efforts to obtain uniform standards among the States have not been successful.

To further insure the purity of our supply of eggs and egg products, authority would be provided for administrative detention and judicial seizure of such articles if they are in violation of the act, including restricted eggs in the possession of unauthorized persons, when found on any premises. Criminal penalities are provided for violations.

In conclusion, legislation is needed to regulate the movement of eggs that could pose a public health problem, insure the wholesomeness of egg products, and provide uniformity in labeling and standards for eggs and egg products.

Consumers should be able to buy eggs and egg products with complete confidence in their wholesomeness and quality. The Nation's egg producers and processors are very conscious of their dependence upon consumer confidence in these products. This bill will insure that Federal and State Governments have the necessary tools and resources to fulfill their obligations to the public.

Thank you, Mr. Chairman.

HEARINGS

Hearings on H.R. 14687, 16092, 16159, 17338, and S. 2116 were held by the Dairy and Poultry Subcommittee on September 14 and 15, 1970. The subcommittee amended H.R. 16092 in several respects, and Mr. Stubblefield introduced H.R. 19757 which incoprorated the the subcommittee amendments. After consideration of H.R. 19757 by the full committee, Mr. Stubblefield introduced H.R. 19888 which included the full committee's recommendations.

COMMITTEE AMENDMENT

The committee amendment simply increases the permissible flock exemption of 500 hens approved by the subcommittee to 3,000 or less hens.

DEVELOPMENT OF LEGISLATION

H.R. 19888 contains several provisions which differ from S. 2116 and H.R. 16092.

These are as follows:

1. It requires all shell egg packers packing eggs for the ultimate consumer to be inspected at least once during each calendar quarter in order to assure a reasonable degree of consumer protection.

2. It restricts the Secretary's power to exempt during the intitation of operations under the act to a period not to exeeed 2 years.

3. It permits the exemption of family farm operators who sell eggs from flocks of 3,000 or less hens.

4. It adds "weight" to the criteria of quality, condition, quantity, or grade set forth in section 23 of the bill.

5. It exempts Hawaii, Alaska, Puerto Rico, and the Virgin Islands from the prohibition against mandatory State of origin labeling requirements.

6. It requires that the cost for the USDA services rendered on special-type holidays not be charged to the egg industry or those processors covered by the Meat Inspection or Poultry Inspection Acts.

7. It authorizes loans through SBA to small businesses affected by this bill and the Meat Inspection and Poultry Inspection Aets.

8. It includes a provision in section 23(b) which would permit States to require that shell eggs sold within the boundaries of that State be labeled in such a manner that the name, address, and license number of the packer of such eggs is shown. This provision would be the sole and specific exeeption to the rule laid down in section 23 that no State or local jurisdiction other than those in noncontiguous areas of the United States may require labeling to show the State or other geographical area of produetion or origin. It is the intent of the eommittee that the exception in regard to name, address, and lieense number not be construed to permit any State to collect fees in addition to the fees charged producers and proeessors within the State. It is not the intention of the eommittee that this provision be used as a trade barrier to the sale of shell eggs in interstate eommeree. It does, however, permit States to impose the minimal requirement of name, address, and lieense number on out-of-State eggs. Nothing in the bill, of eourse, precludes a State from requiring eggs produeed within its own boundaries to be labeled in such manner as the State deems appropriate.

DEPARTMENTAL POSITION

The Department of Agriculture supported the enactment of H.R. 16092 and S. 2116, both by Seeretary Lyng's testimony and by the following report. The Department's comments on the various committee-approved changes in H.R. 19757 also follow:

1. Department report on H.R. 16092:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., August 27, 1970.

HON. W. R. POAGE,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your requcst of August 4, 1970, for a report on H.R. 16092, a bill to provide for the inspection

of eggs and egg products by the U.S. Department of Agriculture, and for other purposes.

This Department recommends that the bill be passed. We believe that the bill is needed in the interest of consumers and would not affect consumer prices of eggs and egg products.

This type of legislation is needed for the adequate protection of consumers. Lack of legislation for effective regulation of handling and disposition of poor quality eggs and for inspection of egg products to prevent adulteration or misbranding is injurious to the public welfare.

Clean and sound shell eggs are not a public health problem. However, eggs classified as leakers, checks, dirties, inedibles, loss, and incubator rejects can constitute a health hazard. Such eggs are frequently carriers of Salmonellae and other bacteria. These eggs should be destroyed for human food purposes or channeled to official egg products processing plants operating under continuous Federal inspection where proper segregation, disposition, and processing can be made.

We are enclosing more detailed information which is pertinent to this bill.

The Office of Management and Budget advises that enactment of this legislation would be consistent with the administration's objectives.

Sincerely,

J. Phil Campbell,
Acting Secretary.

DETAILED INFORMATION REGARDING H.R. 16092

Only clean and sound shell eggs should be sold to household consumers (70 percent of production); used by restaurants and other institutions (14 percent of production); or used by bakeries and other food manufacturers (2 percent of production). All dirty, cracked, and other poor quality eggs should be utilized only in egg products plants (8 percent of production) where they can receive special handling; where the product can be pasteurized; and where unfit eggs can be segregated and destroyed. (The remaining 6 percent of production is used for hatching eggs.) Therefore, in order to accomplish these objectives, the bill would:

(1) Prohibit any person from buying, selling, or transporting, or offering to buy or sell, or offering or receiving for transportation, in any business in interstate, foreign, or intrastate commerce any restricted eggs (i.e., dirties, checks, leakers, incubator rejects, inedible, and loss eggs), except as authorized by the Secretary.

(2) Prohibit any food manufacturer from using restricted eggs in the preparation of human food, except as authorized by the Secretary.

(3) Provide for continuous Federal inspection for any plant processing egg products, except that an exemption would be provided for the processing of egg products at any plants where the eggs used in in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of the U.S. Consumer Grades for Shell Eggs.

(4) Direct the Secretary, whenever he determines that it would effectuate the purpose of the bill, to cooperate with appropriate State

and other governmental agencies in carrying out any of its provisions and reimburse the States and other agencies for the costs incurred by them in such cooperative programs.

(5) Prohibit the importation of restricted eggs except as authorized by regulations of the Secretary and require imported egg products to be processed, labeled, and packaged in accordance with the same requirements as would apply to domestic products.

JURISDICTION AND RESPONSIBILITY

The bill would give the Secretary of Agriculture exclusive jurisdiction over egg products processing plants with respect to matters within the scope of the act, but otherwise preserve the authority of the Secretary of Health, Education, and Welfare under the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act or other Federal officials by such other laws with respect to eggs and egg products. The bill would vest responsibility in the Secretary of Agriculture to enforce the restrictions on distribution or use of poor quality shell eggs by egg handlers, except that the Secretary of Health, Education, and Welfare would have such responsibility at restaurants, institutions, and food-manufacturing plants other than egg products processing plants.

PRESENT INSPECTION PROGRAMS

Presently, the programs for the inspection of eggs and egg products consist of those enforced in States which have mandatory or permissive inspection programs, the voluntary USDA egg and egg products grading and inspection programs as authorized under the Agricultural Marketing Act of 1946, and the regulatory inspections of plants and products as authorized by the Federal Food, Drug, and Cosmetic Act.

(1) USDA program

Approximately 80 percent of the egg products are produced in plants operating under the U.S. Department of Agriculture's voluntary inspection program on a user-fee basis. The USDA regulations require all establishments using this service to (*a*) have approved premises, facilities, labeling, and identification of product; (*b*) operate in accordance with approved sanitary practices and operating procedures; (*c*) segregate and use only specific types of shell eggs for breaking stock; (*d*) process in accordance with specific processing and temperature requirements for cooling, freezing, and drying egg products; (*e*) pasteurize or heat-treat all egg-products; (*f*) have continuous inspection during processing by a Federal or Federal-State inspector. The regulations also provide for final examination of finished egg products by an inspector and examination of samples of products for Salmonellae.

(2) State programs

A questionnaire was sent to States in 1968 to find out the nature and scope of their existing legislative and inspection programs for eggs and egg products. There has been no substantial change since that time.

All States had shell egg regulations. Their major provisions related to grade and labeling requirements for eggs sold at retail outlets. The

regulations, in approximately three-fourths of the States, prohibited the sale to consumers of leakers, loss, inedibles, and incubator rejects. About one-half of the States prohibited consumer sales of dirties and "nest-run" or uncandled eggs. Twenty-two States prohibited the sale of checks to consumers, except for the tolerances permitted in their grades. In a number of these States, the regulations did not cover the sale of these eggs to institutions, restaurants, and food manufacturers such as bakeries.

Eighteen States had egg products legislation. Twenty-six States had general food-type laws pertaining to all establishments processing or preparing food including egg products. Five States did not have any type of egg products legislation and one State did not respond. Only eight States required pasteurization and no State required continuous egg products inspection during processing. At present there is no uniformity among the States of inspection or plant requirements for egg products.

Most States have closely patterned their mandatory requirements for standards grades and weight classes for shell eggs after the official USDA standards. A few States however including some of the major consuming States have adopted different requirements. This practice has acted as a barrier to interstate trade and has been of serious concern to producers in other States because they are required to grade under differing sets of standards depending on destination. To eliminate these burdens one national standard should be adopted for eggs moving in interstate or foreign commerce. Voluntary efforts to achieve uniformity in these State regulatory standards have had little success. Another barrier that should be eliminated is the mandatory requirement by some States that all eggs or shipped-in eggs be labeled as to State of origin. This bill would prohibit such practices by States but would not however impose any restriction on State grades, weight classes or other standards designed for voluntary use to promote locally produced eggs.

COST OF PROGRAM

The cost to this Department to carry out the provisions of this bill would be approximately $5 million annually.

Total staffing for this program would require approximately 450 man-years. It is estimated that staffing would consist of approximately 280 man-years for Federal employees and 170 man-years for State employees. The increase in Federal staffing over what is currently used in the voluntary egg products inspection program would be 150 man-years.

Data gathered from the States and the data for plants presently using USDA's egg products inspection service were used as a basis for calculating the staffing and costs. However the costs could vary dependent upon the number of plants and volume of production.

2. Secretary's letter on committee changes included in H.R. 19757 is as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 30, 1970.

Hon. W. R. POAGE,
Chairman, Committee on Agriculture,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the Department's comments on the amendments included in H.R. 19757 introduced by Congressman Stubblefield which make this bill different from S. 2116. These bills would provide for the inspection of eggs and egg products by the U.S. Department of Agriculture.

(1) Section 5(d)—page 13—lines 2–4

Amendment.—Requires shell egg packers packing eggs for the ultimate consumer to be inspected at least once each calendar quarter.

Response.—We do not believe that requiring shell egg packers to be spot checked on a specified time basis is a practical or constructive statutory provision. In fact, we think that such a requirement could serve as a barrier to the effective administration of this requirement since regulatory manpower would be diverted by making unnecessary visits to plants which have a good record of full compliance. Inspections of shell egg packers likely will average four or more per year. However, enforcement needs and problems encountered with each plant should determine the number and frequency of spot-check inspections of each plant. If the committee feels strongly that a specified number of inspections should be included in the legislation, we suggest that the word "approximately" be substituted for "at least". This would give some flexibility to the enforcement needs while clearly showing the intent of Congress.

(2) Section 8(d)(5), (6), and (7)—pages 17 and 18

Amendment.—Deletes "knowingly" from these subsections.

Response.—We do not object to this. It is not a significant difference because of the common view of the courts that the prosecution should present evidence that a defendant knew (or should have known) that he was violating a law in order for conviction of a criminal offense to be justified.

(3) Section 15(a)6—page 24—lines 7 and 8

Amendments.—Limits Secretary's authority to exempt during initiation of operations under this act to "not to exceed 2 years."

Response.—We do not object to this.

(4) Section 15(a)(7)—page 24—lines 13–15

Amendment.—Adds a new paragraph which would exempt sale of eggs from flocks of less than 500 hens.

Response.—We do not object to this.

(5) Section 23(b)(1)—page 32—line 12

Amendment.—Adds the word "weight" when referring to "standards of quality, condition, etc."

Response.—We do not object to this. It clarifies the intent of the section.

(6) Section 23(b)(2)—page 32—lines 15–17

Amendment.—Exempts noncontiguous areas of the United States from the prohibition against mandatory State of origin labeling requirements.

Response.—This exemption would allow Hawaii, Alaska, Puerto Rico, and the Virgin Islands to require eggs shipped from the continental United States to be labeled as such. Presently, Hawaii and Puerto Rico require each egg to be stamped "U.S." Alaska requires cartons of eggs not produced in Alaska be marked "imported" or with the State of origin. To our knowledge the Virgin Islands has no requirement for imported eggs. These extra labeling requirements impede the free movement of products and add to the marketing cost. The egg industry strongly supports the elimination of these restrictions as do the majority of the State departments of agriculture. We support the provisions of the bill which would eliminate trade barrier labeling requirements and believe all States, including noncontiguous areas, should be treated equally. However, the total volume of eggs shipped from the mainland to these areas is estimated to be less than 1 percent of total U.S. production. Therefore, this amendment would not have a major impact on marketing of shell eggs. Consequently, this exemption may not warrant objection to the point which would jeopardize passage of this bill.

(7) Section 24(b)—page 34

Amendment.—Requires that the cost for special-type holidays not be charged to the industry. Also applies this to the Wholesome Meat and Poultry Inspection Acts.

Response.—We do not object to this.

(8) Section 25—pages 34 and 35

Amendments—Adds a new section dealing with loans for small business assistance; also provides that such loans would be available to plants operating under the Wholesome Meat and Poultry Inspection Acts.

Response.—We have been advised informally that the Small Business Administration would be opposed to this broadening of the disaster loan provisions of the Small Business Act for the reasons expressed in Administrator Sandoval's testimony before the Senate Small Business Subcommittee on July 9, 1969.

(9) Section 26—pages 35–37

Amendment.—Adds a new section dealing with annual reports to the Congress. Included in these reports would be information on the effectiveness of Federal and State activities under this act as well as the effectiveness of foreign inspection systems under this act.

Response.—We do not object to this, although we think the amendment is unnecessary since the Department cooperates fully with congressional committees seeking information.

The items above complete our comments on the differences between H.R. 19757 and S. 2116.

In addition, in accordance with your request, we are submitting below our views to the amendment proposed by the Commissioner of Agriculture of Texas.

Section 23(b)(2)—page 32—line 17

Amendment.—Adds the following to this section: "* * * *Provided, however*, This shall not preclude a State from requiring that the name, address, and license number of the person processing or packaging eggs, be shown on each container."

Response.—We object to this. The purpose of section 23(b) is to facilitate the free movement of eggs and egg products in commerce by providing for uniform standards and labeling requirements. This section is in the bill due in large measure to the near-unanimous support of the egg industry, including all national and regional trade associations, as well as the large majority of State departments of agriculture. Additional and differing labeling requirements on the part of States tend to act as trade barriers, disrupt orderly marketing, and increase marketing cost. Such action on the part of one State on behalf of a certain commodity can bring about retaliatory measures by another State on other commodities.

In administering regulatory programs, it is often necessary to determine the packer or processor of the product. This is done routinely by the use of numbering systems whereby each packer has an assigned number or records or a combination of both. It is not necessary to have the name and address of the packer for this purpose. Nor is it necessary for consumers to know the name and address of the packer.

Consumers definitely need to know who is responsible for the products they purchase. This information is required on all food products including eggs by laws which specify that the name and address of either the packer or distributor be prominently displayed on the container. In the case of eggs, the Fair Packaging and Labeling Act requires this. The bill would not change this requirement. Some States desire to promote their own product and build a strong market for locally produced items. The bill would not prohibit this. A State could require eggs produced and marketed within its boundaries to be labled as such. This would give consumers a clear choice between locally produced product and out-of-State product without imposing restraints on products from other States.

The Texas egg law presently requires the address of the packer, but does not require his name. This, in our opinion, would be in violation of the provisions of the bill prohibiting the mandatory requirement of State of origin labeling. We object to this amendment more strongly than the one dealing with noncontiguous areas of the United States because of the scope of the problem. The volume of eggs shipped from the mainland to Hawaii, Alaska, Puerto Rico, and the Virgin Islands is small. Therefore, the amendment dealing with these areas would not cause a major impact on egg marketing in this country. On the other hand, the amendment offered by the Commissioner from Texas would have a major impact on the free movement of eggs if other States on the mainland adopted laws which require the name and address of the packer.

Practically all States, including Texas, have laws or regulations requiring that the true grade and size of eggs sold at retail be marked on the cartons. Many States charge license fees to finance the enforcement of their regulations. The bill would not interfere with the continuation of State regulations of this kind or of such fees. We are not

informed that any other State requires the name and address of the packer on the retail carton of eggs, or considers that such labeling is needed in order to enforce their State regulations.

Sincerely,

RICHARD LYNG, *Assistant Secretary.*

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Union Calendar No. 803

91ST CONGRESS
2D SESSION

H. R. 19888

[Report No. 91–1670]

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 1970

Mr. STUBBLEFIELD introduced the following bill; which was referred to the Committee on Agriculture

DECEMBER 3, 1970

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Egg Products Inspection Act".

LEGISLATIVE FINDING

SEC. 2. Eggs and egg products are an important source of the Nation's total supply of food, and are used in food

in various forms. They are consumed throughout the Nation and the major portion thereof moves in interstate or foreign commerce. It is essential, in the public interest, that the health and welfare of consumers be protected by the adoption of measures prescribed herein for assuring that eggs and egg products distributed to them and used in products consumed by them are wholesome, otherwise not adulterated, and properly labeled and packaged. Lack of effective regulation for the handling or disposition of unwholesome, otherwise adulterated, or improperly labeled or packaged egg products and certain qualities of eggs is injurious to the public welfare and destroys markets for wholesome, not adulterated, and properly labeled and packaged eggs and egg products and results in sundry losses to producers and processors, as well as injury to consumers. Unwholesome, otherwise adulterated, or improperly labeled or packaged products can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged products, to the detriment of consumers and the public generally. It is hereby found that all egg products and the qualities of eggs which are regulated under this Act are either in interstate or foreign commerce, or substantially affect such commerce, and that regulation by the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, and cooperation

by the States and other jurisdictions, as contemplated by this Act, are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers.

DECLARATION OF POLICY

SEC. 3. It is hereby declared to be the policy of the Congress to provide for the inspection of certain egg products, restrictions upon the disposition of certain qualities of eggs, and uniformity of standards for eggs, and otherwise regulate the processing and distribution of eggs and egg products as hereinafter prescribed to prevent the movement or sale for human food, of eggs and egg products which are adulterated or misbranded or otherwise in violation of this Act.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) The term "adulterated" applies to any egg or egg product under one or more of the following circumstances—

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2) (A) if it bears or contains any added poisonous or added deleterious substance (other than one which is

(i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

(C) if it bears or contians any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(D) if it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug and Cosmetic Act: *Provided*, That an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the Secretary in official plants;

(3) if it consists in whole or in part of any filthy, putrid, or decmoposed substance, or if it is otherwise unfit for human food;

(4) if it has been prepared, packaged, or held under insanitary conditions whereby it may have become

contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(b) The term "capable of use as human food" shall apply to any egg or egg product, unless it is denatured, or otherwise identified, as required by regulations prescribed by the Secretary to deter its use as human food.

(c) The term "commerce" means interstate, foreign, or intrastate commerce.

(d) The term "container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(1) The term "immediate container" means any consumer package; or any other container in which egg products, not consumer packaged, are packed.

(2) The term "shipping container" means any container used in packaging a product packed in an immediate container.

(e) The term "egg handler" means any person who engages in any business in commerce which involves buying or selling any eggs (as a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food.

(f) The term "egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products.

(g) The term "egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

(1) The term "check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(2) The term "clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(3) The term "dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(4) The term "incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(5) The term "inedible" means eggs of the following descriptions: black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(6) The term "leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that

the egg contents are exposed or are exuding or free to exude through the shell.

(7) The term "loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(8) The term "restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(h) The term "Fair Packaging and Labeling Act" means the Act so entitled, approved November 3, 1966 (80 Stat. 1296), and Acts amendatory thereof or supplementary thereto.

(i) The term "Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

(j) The term "inspection" means the application of such inspection methods and techniques as are deemed necessary by the responsible Secretary to carry out the provisions of this Act.

(k) The term "inspector" means:

(1) any employee or official of the United States Government authorized to inspect eggs or egg products under the authority of this Act; or

(2) any employee or official of the government of any State or local jurisdiction authorized by the Secretary to inspect eggs or egg products under the authority of this Act, under an agreement entered into between the Secretary and the appropriate State or other agency.

(l) The term "misbranded" shall apply to egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the Secretary under section 7 of this Act.

(m) The term "official certificate" means any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person performing official functions under this Act.

(n) The term "official device" means any device prescribed or authorized by the Secretary for use in applying any official mark.

(o) The term "official inspection legend" means any symbol prescribed by regulations of the Secretary showing that egg products were inspected in accordance with this Act.

(p) The term "official mark" means the official inspection legend or any other symbol prescribed by regulations of the Secretary to identify the status of any article under this Act.

(q) The term "official plant" means any plant, as de-

termined by the Secretary, at which inspection of the processing of egg products is maintained by the Department of Agriculture under the authority of this Act.

(r) The term "official standards" means the standards of quality, grades, and weight classes for eggs, in effect upon the effective date of this Act, or as thereafter amended, under the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 7 U.S.C. 1621 et seq.).

(s) The term "pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful viable micro-organisms by such processes as may be prescribed by regulations of the Secretary.

(t) The term "person" means any individual, partnership, corporation, association, or other business unit.

(u) The terms "pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" shall have the same meaning for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act.

(v) The term "plant" means any place of business where egg products are processed.

(w) The term "processing" means manufacturing egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(x) The term "Secretary" means the Secretary of Agriculture or his delegate.

(y) The term "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia.

(z) The term "United States" means the States.

INSPECTION, REINSPECTION, CONDEMNATION

SEC. 5. (a) For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any egg product which is capable of use as human food and is misbranded or adulterated, the Secretary shall, whenever processing operations are being conducted, cause continuous inspection to be made, in accordance with the regulations promulgated under this Act, of the processing of egg products, in each plant processing egg products for commerce, unless exempted under section 15 of this Act. Without restricting the application of the preceding sentence to other kinds of establishments within its provisions, any food manufacturing establishment, institution, or restaurant which uses any eggs that do not meet the requirements of paragraph (a) (1) of section 15 of this Act in the preparation of any articles for human food shall be deemed to be a plant processing egg products, with respect to such operations.

(b) The Secretary, at any time, shall cause such retention, segregation, and reinspection as he deems necessary of eggs and egg products capable of use as human food in each official plant.

(c) Eggs and egg products found to be adulterated at official plants shall be condemned and, if no appeal be taken from such determination of condemnation, such articles shall be destroyed for human food purposes under the supervision of an inspector: *Provided*, That articles which may by reprocessing be made not adulterated need not be condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the eggs or egg products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the Secretary determines that the appeal is frivolous. If the determination of condemnation is sustained, the eggs or egg products shall be destroyed for human food purposes under the supervision of an inspector.

(d) The Secretary shall cause such other inspections to be made of the business premises, facilities, inventory, operations, and records of egg handlers, and the records and inventory of other persons required to keep records under section 11 of this Act, as he deems appropriate (and

in the case of shell egg packers, packing eggs for the ultimate consumer, at least once each calendar quarter) to assure that only eggs fit for human food are used for such purpose, and otherwise to assure compliance by egg handlers and other persons with the requirements of section 8 of this Act, except that the Secretary of Health, Education, and Welfare shall cause such inspections to be made as he deems appropriate to assure compliance with such requirements at food manufacturing establishments, institutions, and restaurants, other than plants processing egg products. Representatives of said Secretaries shall be afforded access to all such places of business for purposes of making the inspections provided for in this Act.

SANITATION, FACILITIES, AND PRACTICES

SEC. 6. (a) Each official plant shall be operated in accordance with such sanitary practices and shall have such premises, facilities, and equipment as are required by regulations promulgated by the Secretary to effectuate the purposes of this Act, including requirements for segregation and disposition of restricted eggs.

(b) The Secretary shall refuse to render inspection to any plant whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

PASTEURIZATION AND LABELING OF EGG PRODUCTS AT OFFICIAL PLANTS

SEC. 7. (a) Egg products inspected at any official plant under the authority of this Act and found to be not adulterated shall be pasteurized before they leave the official plant, except as otherwise permitted by regulations of the Secretary, and shall at the time they leave the official plant, bear in distinctly legible form on their shipping containers or immediate containers, or both, when required by regulations of the Secretary, the official inspection legend and official plant number, of the plant where the products were processed, and such other information as the Secretary may require by regulations to describe the products adequately and to assure that they will not have false or misleading labeling.

(b) No labeling or container shall be used for egg products at official plants if it is false or misleading or has not been approved as required by the regulations of the Secretary. If the Secretary has reason to believe that any labeling or the size or form of any container in use or proposed for use with respect to egg products at any official plant is false or misleading in any particular, he may direct that such use be withheld unless the labeling or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to

use the labeling or container does not accept the determination of the Secretary, such person may request a hearing, but the use of the labeling or container shall, if the Secretary so directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the United States court of appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162, as amended; 7 U.S.C. 194), shall be applicable to appeals taken under this section.

PROHIBITED ACTS

SEC. 8. (a) (1) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in any business in commerce any restricted eggs, capable of use as human food, except as authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(2) No egg handler shall possess with intent to use, or use, any restricted eggs in the preparation of human food for commerce except that such eggs may be so pos-

sessed and used when authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(b) (1) No person shall process any egg products for commerce at any plant except in compliance with the requirements of this Act.

(2) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in commerce any egg products required to be inspected under this Act unless they have been so inspected and are labeled and packaged in accordance with the requirements of section 7 of this Act.

(3) No operator of any official plant shall fail to comply with any requirements of paragraph (a) of section 6 of this Act or the regulations thereunder.

(4) No operator of any official plant shall allow any egg products to be moved from such plant if they are adulterated or misbranded and capable of use as human food.

(c) No person shall violate any provision of section 10, 11, or 17 of this Act.

(d) No person shall—

(1) manufacture, cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark

or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary;

(2) forge or alter any official device, mark, or certificate;

(3) without authorization from the Secretary, use any official device, mark, or certificate, or simulation thereof, or detach, deface, or destroy any official device or mark; or use any labeling or container ordered to be withheld from use under section 7 of this Act after final judicial affirmance of such order or expiration of the time for appeal if no appeal is taken under said section;

(4) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(5) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label, or any eggs or egg products bearing any counterfeit, simulated, forged, or improperly altered official mark;

(6) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary;

(7) knowingly represent that any article has been inspected or exempted, under this Act, when, in fact, it has, respectively, not been so inspected or exempted; and

(8) refuse access, at any reasonable time, to any representative of the Secretary of Agriculture or the Secretary of Health, Education, and Welfare, to any plant or other place of business subject to inspection under any provisions of this Act.

(e) No person, while an official or employee of the United States Government or any State or local governmental agency, or thereafter, shall use to his own advantage, or reveal other than to the authorized representatives of the United States Government or any State or other government in their official capacity, or as ordered by a court in a judicial proceeding, any information acquired under the authority of this Act concerning any matter which is entitled to protection as a trade secret.

FEDERAL AND STATE COOPERATION

SEC. 9. The Secretary shall, whenever he determines that it would effectuate the purposes of this Act, cooperate with appropriate State and other governmental agencies, in carrying out any provisions of this Act. In carrying out the provisions of this Act, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any such

agency commissioned by him for such purpose. The Secretary shall reimburse the States and other agencies for the costs incurred by them in such cooperative programs.

EGGS AND EGG PRODUCTS NOT INTENDED FOR HUMAN FOOD

SEC. 10. Inspection shall not be provided under this Act at any plant for the processing of any egg products which are not intended for use as human food, but such articles, prior to their offer for sale or transportation in commerce, shall be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation, in commerce, any restricted eggs or egg products which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary.

RECORD AND RELATED REQUIREMENTS FOR PROCESSORS OF EGGS AND EGG PRODUCTS AND RELATED INDUSTRIES

SEC. 11. For the purpose of enforcing the provisions of this Act and the regulations promulgated thereunder, all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in commerce or holding such articles so received, and all egg handlers, shall maintain such records showing, for such time and in such form and manner, as the Secretary of Agriculture or the Secretary of Health, Education, and Welfare may prescribe, to the extent

that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of a duly authorized representative of either of said Secretaries, permit him at reasonable times to have access to and to copy all such records.

PENALTIES

SEC. 12. (a) Any person who commits any offense prohibited by section 8 of this Act shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine, but if such violation involves intent to defraud, or any distribution or attempted distribution of any article that is known to be adulterated (except as defined in section 4(a)(8) of this Act), such person shall be subject to imprisonment for not more than three years or a fine of not more than $10,000, or both. When construing or enforcing the provisions of section 8, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(b) No carrier or warehouseman shall be subject to the penalties of this Act, other than the penalties for violation of

section 11 of this Act or paragraph (c) of this section 12, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier or warehouseman of eggs or egg products owned by another person unless the carrier or warehouseman has knowledge, or is in possession of facts which would cause a reasonable person to believe that such eggs or egg products were not eligible for transportation under, or were otherwise in violation of, this Act, or unless the carrier or warehouseman refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such eggs or egg products and copies of all documents, if there be any, pertaining to the delivery of the eggs or egg products to, or by, such carrier or warehouseman.

(c) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such act, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punished as provided under sections 1111 and 1112 of title 18, United States Code.

REPORTING OF VIOLATIONS

SEC. 13. Before any violation of this Act is reported by the Secretary of Agriculture or Secretary of Health, Education, and Welfare to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this Act shall be construed as requiring the Secretary of Agriculture or Secretary of Health, Education, and Welfare to report for criminal prosecution violations of this Act whenever he believes that the public interest will be adequately served and compliance with the Act obtained by a suitable written notice of warning.

REGULATIONS AND ADMINISTRATION

SEC. 14. The Secretary shall promulgate such rules and regulations as he deems necessary to carry out the purposes or provisions of this Act, and shall be responsible for the administration and enforcement of this Act except as otherwise provided in paragraph (d) of section 5 of this Act.

EXEMPTIONS

SEC. 15. (a) The Secretary may, by regulation and under such conditions and procedures as he may prescribe, exempt from specific provisions of this Act—

(1) the sale, transportation, possession, or use of

eggs which contain no more restricted eggs than are allowed by the tolerance in the official standards of United States consumer grades for shell eggs;

(2) the processing of egg products at any plant where the facilities and operating procedures meet such sanitary standards as may be prescribed by the Secretary, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of United States consumer grades for shell eggs, and the egg products processed at such plant;

(3) the sale of eggs by any poultry producer from his own flocks directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(4) the processing of egg products by any poultry producer from eggs of his own flocks' production for sale of such products directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the egg products so processed when handled in accordance with this paragraph;

(5) the sale of eggs by shell egg packers on his

own premises directly to household consumers for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(6) for such period of time (not to exceed two years) during the initiation of operations under this Act as the Secretary determines that it is impracticable to provide inspection, the processing of egg products at any class of plants and the egg products processed at such plants; and

(7) the sale of eggs by any egg producer with an annual egg production from ~~less than five hundred hen flock~~ *a flock of three thousand or less hens.*

(b) The Secretary may immediately suspend or terminate any exemption under paragraph (a) (2) or (6) of this section at any time with respect to any person, if the conditions of exemption prescribed by this section or the regulations of the Secretary are not being met. The Secretary may modify or revoke any regulation granting exemption under this Act whenever he deems such action appropriate to effectuate the purposes of this Act.

ENTRY OF MATERIALS INTO OFFICIAL PLANTS

SEC. 16. The Secretary may limit the entry of eggs and egg products and other materials into official plants under

such conditions as he may prescribe to assure that allowing the entry of such articles into such plants will be consistent with the purposes of this Act.

IMPORTS

SEC. 17. (a) No restricted eggs capable of use as human food shall be imported into the United States except as authorized by regulations of the Secretary. No egg products capable of use as human food shall be imported into the United States unless they were processed under an approved continuous inspection system of the government of the foreign country of origin or subdivision thereof and are labeled and packaged in accordance with, and otherwise comply with the standards of this Act and regulations issued thereunder applicable to such articles within the United States. All such imported articles shall upon entry into the United States be deemed and treated as domestic articles subject to the other provisions of this Act: *Provided,* That they shall be labeled as required by such regulations for imported articles: *Provided further,* That nothing in this section shall apply to eggs or egg products purchased outside the United States by any individual for consumption by him and members of his household and his nonpaying guests and employees.

(b) The Secretary may prescribe the terms and conditions for the destruction of all such articles which are imported contrary to this section, unless (1) they are exported

by the consignee within the time fixed therefor by the Secretary or (2) in the case of articles which are not in compliance solely because of misbranding, such articles are brought into compliance with this Act under supervision of authorized representatives of the Secretary.

(c) All charges for storage, cartage, and labor with respect to any article which is imported contrary to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter imported under this Act by or for such owner or consignee.

(d) The importation of any article contrary to this section is prohibited.

REFUSAL OF INSPECTION

SEC. 18. The Secretary (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) may refuse to provide or may withdraw inspection service under this Act with respect to any plant if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this Act, because the applicant or recipient or anyone responsibly connected with the applicant or recipient has been convicted in any Federal or State court, within the previous ten years, of (1) any felony or more than

one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food, or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he is a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock, or employee in a managerial or executive capacity.

The determination and order of the Secretary with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the United States court of appeals for the circuit in which such applicant or recipient has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 204 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 194) shall be applicable to appeals taken under this section.

This section shall not affect in any way other provisions of this Act for refusal of inspection services.

ADMINISTRATIVE DETENTION

SEC. 19. Whenever any eggs or egg products subject to the Act, are found by any authorized representative of the Secretary upon any premises and there is reason to believe that they are or have been processed, bought, sold, possessed used, transported, or offered or received for sale or transportation in violation of this Act or that they are in any other way in violation of this Act, or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary, such articles may be detained by such representative for a reasonable period but not to exceed twenty days, pending action under section 20 of this Act or notification of any Federal, State, or other governmental authorities having jurisdiction over such articles and shall not be moved by any person from the place at which they are located when so detained until released by such representative. All official marks may be required by such representative to be removed from such articles before they are released unless it appears to the satisfaction of the Secretary that the articles are eligible to retain such marks.

JUDICIAL SEIZURE PROCEEDINGS

SEC. 20. (a) Any eggs or egg products that are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation, in violation of this Act, or in any other way are in violation of this Act; and any restricted eggs, capable of use as human food, in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary shall be liable to be proceeded against and seized and condemned, at any time, on a complaint in any United States district court or other proper court as provided in section 21 of this Act within the jurisdiction of which the articles are found. If the articles are condemned they shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the articles shall not be sold contrary to the provision of this Act, the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which they are sold: *Provided*, That upon the execution and delivery of a good and sufficient bond conditioned that the articles shall not be sold or otherwise disposed of contrary to the provisions of this Act, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging

and Labeling Act, or the laws of the jurisdiction in which disposal is made, the court may direct that they be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the articles and they are released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant thereof. The proceedings in such cases shall conform, as nearly as may be, to the supplemental rules for certain admiralty and maritime claims, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Act, or other laws.

JURISDICTION

SEC. 21. The United States district courts and the District Court of the Virgin Islands are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act, and shall have jurisdiction in all other cases, arising under this Act, except as provided in section 18 of this Act. All proceedings for the enforcement or to re-

strain violations of this Act shall be by and in the name of the United States. Subpenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

APPLICABILITY OF OTHER ACTS

SEC. 22. For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Federal Trade Commission Act, as amended (38 Stat. 721–723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraphs (c) through (h) of section 6 and the last paragraph of section 9), and the provisions of subsection 409 (l) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409 (l)), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred by said sections 9 and 10 of the Federal Trade Commission Act, as amended, on the district courts of the United States may be exercised for the purposes of this Act by any court designated in section 21 of this Act.

RELATION TO OTHER AUTHORITIES

SEC. 23. (a) Requirements within the scope of this Act with respect to premises, facilities, and operations of any official plant which are in addition to or different than those made under this Act may not be imposed by any State or local jurisdiction except that any such jurisdiction may impose recordkeeping and other requirements within the scope of section 11 of this Act, if consistent therewith, with respect to any such plant.

(b) For eggs which have moved or are moving in interstate or foreign commerce, (1) no State or local jurisdiction may require the use of standards of quality, condition, weight, quantity, or grade which are in addition to or different from the official Federal standards, and (2) no State or local jurisdiction other than those in noncontiguous areas of the United States may require labeling to show the State or other geographical area of production or origin: *Provided, however*, That this shall not preclude a State from requiring that the name, address, and license number of the person processing or packaging eggs, be shown on each container. Labeling, packaging, or ingredient requirements, in addition to or different than those made under this Act, the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, may not be imposed by any State or local jurisdiction, with respect to egg products processed at any

official plant in accordance with the requirements under such Acts. However, any State or local jurisdiction may exercise jurisdiction with respect to eggs and egg products for the purpose of preventing the distribution for human food purposes of any such articles which are outside of such a plant and are in violation of any of said Federal Acts or any State or local law consistent therewith. Otherwise the provisions of this Act shall not invalidate any law or other provisions of any State or other jurisdiction in the absence of a conflict with this Act.

(c) The provisions of this Act shall not affect the applicability of the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act or other Federal laws to eggs, egg products, or other food products or diminish any authority conferred on the Secretary of Health, Education, and Welfare or other Federal officials by such other laws, except that the Secretary of Agriculture shall have exclusive jurisdiction to regulate official plants processing egg products and operations thereof as to all matters within the scope of this Act.

(d) The detainer authority conferred on representatives of the Secretary of Agriculture by section 19 of this Act shall also apply to any authorized representative of the Secretary of Health, Education, and Welfare for the purposes of paragraph (d) of section 5 of this Act, with

respect to any eggs or egg products that are outside any plant processing egg products.

COST OF INSPECTION

SEC. 24. (a) The cost of inspection rendered under the requirements of this Act, and other costs of administration of this Act, shall be borne by the United States, except that the cost of overtime and holiday work performed in official plants subject to the provisions of this Act at such rates as the Secretary may determine shall be borne by such official plants. Sums received by the Secretary from official plants under this section shall be available without fiscal year limitation to carry out the purposes of this Act.

(b) The term "holiday" for the purposes of assessment or reimbursement of the cost of inspection performed under this Act, the Wholesome Poultry Products Act, and the Wholesome Meat Act shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, title 5 of the United States Code.

SMALL BUSINESS ASSISTANCE

SEC. 25. (a) Section 7 (b) of the Small Business Act is amended—

(1) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and "; and

(2) by adding after paragraph (4) a new paragraph as follows:

"(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed by the Egg Products Inspection Act, the Wholesome Poultry and Poultry Products Act, and the Wholesome Meat Act of 1967 or State laws enacted in conformity therewith, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The third sentence of section 7(b) of such Act is amended by inserting "or (5)" after "paragraph (3)".

(c) Section 4(c)(1) of the Small Business Act is amended by inserting "7(b)(5)", after "7(b)(4),".

ANNUAL REPORT

SEC. 26. (a) Not later than March 1 of each year following the enactment of this Act the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate a comprehensive and detailed written report with respect to—

(1) the processing, storage, handling, and distribution of eggs and egg products subject to the provisions of this title; the inspection of establishments operated in connection therewith; the effectiveness of the operation of the inspection, including the effectiveness of the operations of State egg inspection programs; and recommendations for legislation to improve such program; and

(2) the administration of section 17 of this Act (relating to imports) during the immediately preceding calendar year, including but not limited to—

(A) a certification by the Secretary that foreign plants exporting eggs or egg products to the United States have complied with requirements of this Act and regulations issued thereunder;

(B) the names and locations of plants authorized or permitted to export eggs or egg products to the United States;

(C) the number of inspectors employed by the Department of Agriculture in the calendar year concerned who were assigned to inspect plants referred to in paragraph (B) hereof and the frequency with which each such plant was inspected by such inspectors;

(D) the number of inspectors that were li-

censed by each country from which any imports were received and that were assigned, during the calendar year concerned, to inspect such imports and the facilities in which such imports were handled; and the frequency and effectiveness of such inspections;

(E) the total volume of eggs and egg products which was imported into the United States during the calendar year concerned from each country, including a separate itemization of the volume of each major category of such imports from each country during such year, and a detailed report of rejections of plants and products because of failure to meet appropriate standards prescribed by this title; and

(F) recommendations for legislation to improve such program.

APPROPRIATIONS

SEC. 27. Such sums as are necessary to carry out the provisions of this Act are hereby authorized to be appropriated.

SEPARABILITY OF PROVISIONS

SEC. 28. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of

such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DAY

SEC. 29. The provisions of this Act with respect to egg products shall take effect six months after enactment. Otherwise, this Act shall take effect eighteen months after enactment.

Union Calendar No. 803

91ST CONGRESS
2D SESSION

H. R. 19888

[Report No. 91–1670]

A BILL

To provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act, and for other purposes.

By Mr. STUBBLEFIELD

DECEMBER 1, 1970

Referred to the Committee on Agriculture

DECEMBER 3, 1970

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

For actions of December 11, 1970
91st-2nd; No. 199

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HIGHLIGHTS: House passed egg inspection bill.
Rep. Zwach urged 100% parity.
Senate agreed to House amendments to Potato Research and Promotion act, with amendment granting authority for milk promotion.

HOUSE

1. FLOOR ACTION.

Passed H.R. 19888, providing for the inspection of eggs and egg products, as reported. pp. H11547-52

Passed without amendment H.R. 19868, proposed estate, excise, and gift tax adjustment bill. pp. H11554-66

Disagreed to the Senate amendment to H.J. Res. 1117, establishing a Joint Committee on the Environment. Conference requested and conferees appointed. p. H11545

POSTAGE AND FEES PAID
U.S. DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250
OFFICIAL BUSINESS

2. COMMITTEE ACTION.
Conferees filed reports on:
H.R. 18515, FY 71 Labor and HEW appropriation bill (H. Rept. 91-1729); and
H.R. 17755, FY 71 Department of Transportation appropriation bill (H. Rept. 91-1730). p. H11601
Committee on Government Operations filed a report "The Role and Effectiveness of Federal Advisory Committees" (H. Rept. 91-1731). p. H11601
Conferees agreed to file a report on S. 3619, the disaster relief and assistance bill. p. D1266

3. LEGISLATIVE PROGRAM. Among the bills for consideration the week of December 14 will be H.R. 18582, the food stamp amendments, and H.R. 19567, the International Coffee Agreement. pp. H11594-5

4. NUTRITION. Rep. Price, Texas, included a treatise discussing the need for increasing the nutritional value of the "traditional American diet". pp. H11598-600

5. OUTLAYS. Received a report from OMB on the operation of section 501 of the Second Supplemental Appropriations Act, 1970, which establishes a limitation on budget outlays for fiscal year 1971; to the Committee on Appropriations (H. Doc. 91-426). p. H11601

6. POLLUTION. Received a letter from the Environmental Protection Agency transmitting a notice of the Agency's intention to submit a report on an "investigation and study of the feasibility of all methods of financing the cost of preventing, controlling, and abating water pollution, other than methods authorized by existing law"; to the Committee on Public Works. p. H11601

7. ADJOURNED until Monday, Dec. 14. p. H11601

SENATE

8. POTATO RESEARCH. Agreed to House amendment to S. 1181, proposed Potato Research & Promotion Act, with an amendment substituting the language of S. 4560, to provide authority for promotion programs for milk, tomatoes, and potatoes. pp. S20021-6

9. APPROPRIATIONS. Committee on Appropriations in executive session ordered favorably reported with amendments H.R. 19928, FY 1971 supplemental appropriations. p. S20032

10. INSURED LOANS. Committee on Finance voted to report (but did not actually report) H.R. 15979, providing that interest on certain insured loans sold out of the Agricultural Credit Insurance Fund shall be subject to income tax. p. D1265

Fund for combating highjacking, sabotage and other activities endangering the security of civil aviation.

Amendment No. 15: Appropriates $45,000,000 for research and development as proposed by the House instead of $47,500,000 as proposed by the Senate.

Federal Highway Administration

Amendment No. 16: Appropriates $512,500 for the office of the Administrator, salaries and expenses, instead of $500,000 as proposed by the House and $525,000 as proposed by the Senate.

Amendment No. 17: Provides transfer of $14,773,500 from the appropriation for "Federal-aid-highways (trust fund)" instead of $14,721,000 as proposed by the House and $14,826,000 as proposed by the Senate.

Amendment No. 18: Provides $69,460,500 for Bureau of Public Roads, limitation on general expenses, instead of $68,488,000 as proposed by the House and $70,433,000 as proposed by the Senate.

Amendments Nos. 19 and 20: Appropriate $4,351,365,000 for Federal-aid-highways (trust fund) instead of $4,350,340,000 as proposed by the House and $4,352,390,000 as proposed by the Senate, and provide that $2,445,785,950 shall be derived from the fiscal year 1970 authorization instead of $2,444,760,950 as proposed by the House and $2,446,810,950 as proposed by the Senate.

Amendment No. 21: Appropriates $3,580,500 for motor carrier safety instead of $3,443,000 as proposed by the House and $3,718,000 as proposed by the Senate.

Amendment No. 22: Appropriates $17,500,000 for forest highways (liquidation of contract authorization) instead of $15,000,000 as proposed by the House and $20,000,000 as proposed by the Senate.

Amendment No. 23: Appropriates $14,000,000 for public lands highways (liquidation of contract authorization) instead of $13,000,000 as proposed by the House and $15,000,000 as proposed by the Senate.

National Highway Safety Bureau

Amendment No. 24: Appropriates $42,935,000 for traffic and highway safety instead of $40,435,000 as proposed by the House and $47,601,000 as proposed by the Senate.

Federal Railroad Administration

Amendment No. 25: Appropriates $18,000,000 for high-speed ground transportation research and development instead of $21,688,000 as proposed by the Senate.

No part of the reduction is to be applied to the Office's demonstration programs.

Amendment No. 26: Appropriates $950,000 for railroad research instead of $900,000 as proposed by the House and $1,005,000 as proposed by the Senate.

Amendment No. 27: Inserts language proposed by the Senate earmarking not less than $230,000 for freight car utilization studies.

Urban Mass Transportation Administration

Amendment No. 28: Appropriates $3,325,000 for salaries and expenses instead of $3,200,000 as proposed by the House and $3,450,000 as proposed by the Senate. The conference agreement includes 21 positions in addition to those provided by the House.

Amendment No. 29: Appropriates $6,000,000 for research, development, and demonstration instead of $20,000,000 as proposed by the Senate.

TITLE II—RELATED AGENCIES

Civil Aeronautics Board

Amendment No. 30: Appropriates $50,000,000 for payments to air carriers instead of $27,327,000 as proposed by the House and $58,300,000 as proposed by the Senate.

Interstate Commerce Commission

Amendment No. 31: Inserts language proposed by the Senate earmarking $300,000 additional for the employment of car service agents.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the Senate amendment appropriating $3,216,668 (together with such amounts as may be necessary to pay interest) for payment of loan guaranties.

TITLE III—GENERAL PROVISIONS

Amendment No. 33: Restores House provision and limits commitments for grants-in-aid for airport development to $250,000,000 instead of $220,000,000 as proposed by the House.

Amendment No. 34: Restores House provision and limits obligations for highway beautification to $8,500,000, plus the additional amounts appropriated therefor instead of $5,500,000 as proposed by the House.

Under the conference agreement virtually all currently authorized obligational authority will have been provided. When an additional authorization is enacted, the Committees on Appropriations will consider any formal supplemental request for this program.

Amendment No. 35: Restores section number as proposed by the House.

Amendment No. 36: Limits obligations for State and community highway safety to $75,000,000 instead of $70,000,000 as proposed by the House and $80,000,000 as proposed by the Senate.

Amendment No. 37: Restores section number as proposed by the House.

Amendment No. 38: Limits obligations for Forest highways to $27,750,000 instead of $22,500,000 as proposed by the House and $33,000,000 as proposed by the Senate.

Amendment No. 39: Restores section number as proposed by the House.

Amendment No. 40: Limits obligations for Public lands Highways to $13,000,000 instead of $10,000,000 as proposed by the House and $16,000,000 as proposed by the Senate.

Amendment No. 41: Restores the language proposed by the House placing a limitation on administrative expenses in connection with commitments for grants for Urban Mass Transportation, amended to provide for grants aggregating not more than $600,000,000 instead of $214,000,000 (plus the additional amounts appropriated therefor) as proposed by the House and no limitation as proposed by the Senate.

The conferees agree with the overall objectives of the program, but are of the opinion that the requirements of the UMTA program should be subject to annual appropriations review.

The additional amount provided over the House bill is considered to be realistic at this time inasmuch as the obligations will be made over only the last half of the current fiscal year. Program levels for future years, within the total authorized, will then be determined as the program progresses on the basis of demonstrated requirements.

Amendments Nos. 42 and 43: Restore section numbers as proposed by the House.

Amendments Nos. 44 and 45: Reported in technical disagreement. The managers on the part of the House will offer motions to recede and concur with the Senate amendments which provide amended language prohibiting any further construction of the Miami jetport or of any other air facility in the State of Florida lying south of the Okeechobee Waterway and in the drainage basins contributing water to the Everglades National Park until it has been shown by an appropriate study made jointly by the Department of the Interior and the Department of Transportation that such an airport will not have an adverse environmental effect on the ecology of the Everglades and until any site selected on the basis of such study is approved by the Department of the Interior and the Department of Transportation: Provided, that nothing in the section shall affect the availability of such funds to carry out this study.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1971 recommended by the committee of conference, with comparisons to the fiscal year 1970 total, the 1971 budget estimate total, and the House and Senate bills follows:

New budget (obligational) authority, fiscal year 1970	[1] $2,346,365,423
Budget estimates of new (obligational) authority fiscal year 1971 (as amended)	[2] 2,741,827,437
House bill, fiscal year 1971	[3] 2,579,579,937
Senate bill, fiscal year 1971	[3] 2,453,923,605
Conference agreement	[3] [4] 2,608,134,605
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1970	+261,769,182
Budget estimates of new (obligational) authority, fiscal year 1971 (as amended)	[5] −133,692,832
House bill, fiscal year 1971	+28,554,668
Senate bill, fiscal year 1971	+154,211,000

[1] Includes all appropriations for fiscal year 1970 and a $214,000,000 advance appropriation for fiscal year 1971.

[2] Includes $188,011,000 advance appropriation for fiscal year 1972.

[3] Includes $150,000,000 advance appropriation for fiscal year 1972.

[4] Includes $3,216,668 reported in technical disagreement.

[5] Includes $38,011,000 related to fiscal year 1972 budget estimate.

EDWARD P. BOLAND,
JOHN J. MCFALL,
SIDNEY R. YATES
(except as to amendment No. 4),
TOM STEED,
GEORGE MAHON,
SILVIO O. CONTE
(except as to amendment No. 4),
WILLIAM E. MINSHALL
(except as to amendment No. 4),
JACK EDWARDS,
FRANK T. BOW,
Managers on the Part of the House.

APPOINTMENT OF CONFEREES ON H.R. 19333, SECURITIES INVESTOR PROTECTION ACT OF 1970

Mr. ECKHARDT. Mr. Speaker, on behalf of the chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS) I ask unanimous consent to take from the Speaker's table the bill (H.R. 19333) to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, MOSS, MURPHY of New York, KEITH, and HARVEY.

EGG PRODUCTS INSPECTION ACT

Mr. STUBBLEFIELD. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 19888) to provide for the inspection of certain

egg products by the U.S. Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this act, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the bill, as follows:

H.R. 19888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Egg Products Inspection Act".

LEGISLATIVE FINDING

SEC. 2. Eggs and egg products are an important source of the Nation's total supply of food, and are used in food in various forms. They are consumed throughout the Nation and the major portion thereof moves in interstate or foreign commerce. It is essential, in the public interest, that the health and welfare of consumers be protected by the adoption of measures prescribed herein for assuring that eggs and egg products distributed to them and used in products consumed by them are wholesome, otherwise not adulterated, and properly labeled and packaged. Lack of effective regulation for the handling or disposition of unwholesome, otherwise adulterated, or improperly labeled or packaged egg products and certain qualities of eggs is injurious to the public welfare and destroys markets for wholesome, not adulterated, and properly labeled and packaged eggs and egg products and results in sundry losses to producers and processors, as well as injury to consumers. Unwholesome, otherwise adulterated, or improperly labeled or packaged products can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged products, to the detriment of consumers and the public generally. It is hereby found that all egg products and the qualities of eggs which are regulated under this Act are either in interstate or foreign commerce, or substantially affect such commerce, and that regulation by the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, and cooperation by the States and other jurisdictions, as contemplated by this Act, are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers.

DECLARATION OF POLICY

SEC. 3. It is hereby declared to be the policy of the Congress to provide for the inspection of certain egg products, retrictions upon the disposition of certain qualities of eggs, and uniformity of standards for eggs, and otherwise regulate the processing and distribution of eggs and egg products as hereinafter prescribed to prevent the movement or sale for human food, of eggs and egg products which are adulterated or misbranded or otherwise in violation of this Act.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) The term "adulterated" applies to any egg or egg product under one or more of the following circumstances—

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2)(A) if it bears or contans any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

(C) if it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(D) if it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug and Cosmetic Act: *Provided,* That an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the Secretary in official plants;

(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(4) if it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food Drug and Cosmetic Act; or

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(b) The term "capable of use as human food" shall apply to any egg or egg product, unless it is denatured, or otherwise identified, as required by regulations prescribed by the Secretary to deter its use as human food.

(c) The term "commerce" means interstate, foreign, or intrastate commerce.

(d) The term "container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(1) The term "immediate container" means any consumer package; or any other container in which egg products, not consumer packaged, are packed.

(2) The term "shipping container" means any container used in packaging a product packed in an immediate container.

(e) The term "egg handler" means any person who engages in any business in commerce which involves buying or selling any eggs (as a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food.

(f) The term "egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products.

(g) The term "egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

(1) The term "check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(2) The term "clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(3) The term "dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(4) The term "incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(5) The term "inedible" means eggs of the following descriptions: black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolk, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(6) The term "leaker" an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(7) The term "loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(8) The term "restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(h) The term "Fair Packaging and Labeling Act" means the Act so entitled, approved November 3, 1966 (80 Stat. 1296), and Acts amendatory thereof or supplementary thereto.

(i) The term "Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

(j) The term "inspection" means the application of such inspection methods and techniques as are deemed necessary by the responsible Secretary to carry out the provisions of this Act.

(k) The term "inspector" means:

(1) any employee or official of the United States Government authorized to inspect eggs or egg products under the authority of this Act; or

(2) any employee or official of the government of any State or local jurisdiction authorized by the Secretary to inspect eggs or egg products under the authority of this Act, under an agreement entered into between the Secretary and the appropriate State or other agency.

(l) The term "misbranded" shall apply to egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the Secretary under section 7 of this Act.

(m) The term "official certificate" means any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person performing official functions under this Act.

(n) The term "official device" means any device prescribed or authorized by the Secretary for use in applying any official mark.

(o) The term "official inspection legend" means any symbol prescribed by regulations

of the Secretary showing that egg products were inspected in accordance with this Act.

(p) The term "official mark" means the official inspection legend or any other symbol prescribed by regulations of the Secretary to identify the status of any article under this Act.

(q) The term "official plant" means any plant, as determined by the Secretary, at which inspection of the processing of egg products is maintained by the Department of Agriculture under the authority of this Act.

(r) The term "official standards" means the standards of quality, grades, and weight classes for eggs, in effect upon the effective date of this Act, or as thereafter amended, under the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 7 U.S.C. 1621 et seq.).

(s) The term "pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful viable micro-organisms by such processes as may be prescribed by regulations of the Secretary.

(t) The term "person" means any individual, partnership, corporation, association, or other business unit.

(u) The terms "pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" shall have the same meaning for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act.

(v) The term "plant" means any place of business where egg products are processed.

(w) The term "processing" means manufacturing egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(x) The term "Secretary" means the Secretary of Agriculture or his delegate.

(y) The term "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia.

(z) The term "United States" means the States.

INSPECTION, REINSPECTION, CONDEMNATION

SEC. 5. (a) For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any egg product which is capable of use as human food and is misbranded or adulerated, the Secretary shall, whenever processing operations are being conducted, cause continuous inspection to be made, in accordance with the regulations promulgated under this Act, of the processing of egg products, in each plant processing egg products for commerce, unless exempted under section 15 of this Act. Without restricting the application of the preceding sentence to other kinds of establishments within its provisions, any food manufacturing establishment. institution, or restaurant which uses any eggs that do not meet the requirements of paragraph (a)(1) of section 15 of this Act in the preparation of any articles for human food shall be deemed to be a plant processing egg products, with respect to such operations.

(b) The Secretary, at any time, shall cause such retention, segregation, and reinspection as he deems necessary of eggs and egg products capable of use as human food in each official plant.

(c) Eggs and egg products found to be adulterated at official plants shall be condemned and, if no appeal be taken from such determination of condemnation, such articles shall be destroyed for human food purposes under the supervision of an inspector: *Provided,* That articles which may by reprocessing be made not adulterated need not be condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the eggs or egg products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the Secretary determines that the appeal is frivolous. If the determination of condemnation is sustained, the eggs or egg products shall be destroyed for human food purposes under the supervision of an inspector.

(d) The Secretary shall cause such other inspections to be made of the business premises, facilities, inventory, operations, and records of egg handlers, and the records and inventory of other persons required to keep records under section 11 of this Act, as he deems appopriate (and in the case of shell egg packers, packing eggs for the ultimate consumer, at least once each calendar quarter) to assure that only eggs fit for human food are used for such purpose, and otherwise to assure compliance by egg handlers and other persons with the requirements of section 8 of this Act, except that the Secretary of Health, Education, and Welfare shall cause such inspections to be made as he deems appropriate to assure compliance with such requirements at food manufacturing establishments, institutions, and restaurants, other than plants processing egg products. Representatives of said Secretaries shall be afforded access to all such places of business for purposes of making the inspections provided for in this Act.

SANITATION, FACILITIES, AND PRACTICES

SEC. 6. (a) Each official plant shall be operated in accordance with such sanitary practices and shall have such premises, facilities, and equipment as are required by regulations promulgated by the Secretary to effectuate the purposes of this Act, including requirements for segregation and disposition of restricted eggs.

(b) The Secretary shall refuse to render inspection to any plant whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

PASTEURIZATION AND LABELING OF EGG PRODUCTS AT OFFICIAL PLANTS

SEC. 7. (a) Egg products inspected at any official plant under the authority of this Act and found to be not adulterated shall be pasteurized before they leave the official plant, except as otherwise permitted by regulations of the Secretary, and shall at the time they leave the official plant, bear in distinctly legible form on their shipping containers or immediate containers, or both, when required by regulations of the Secretary, the official inspection legend and official plant number, of the plant where the products were processed, and such other information as the Secretary may require by regulations to describe the products adequately and to assure that they will not have false or misleading labeling.

(b) No labeling or container shall be used for egg products at official plants if it is false or misleading or has not been approved as required by the regulations of the Secretary. If the Secretary has reason to believe that any labeling or the size or form of any container in use or proposed for use with respect to egg products at any official plant is false or misleading in any particular, he may direct that such use be withheld in any particular, he may direct that such use be withheld unless the labeling or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to use the labeling or container does not accept the determination of the Secretary, such person may request a hearing, but the use of the labeling or container shall, if the Secretary so directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the United States court of appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162, as amended; 7 U.S.C. 194), shall be applicable to appeals taken under this section.

PROHIBITED ACTS

SEC. 8. (a)(1) No person shall buy, sell, or transport, or offer to buy or sell, or offer to receive for transportation, in any business in commerce any restricted eggs, capable of use as human food, except as authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(2) No egg handler shall possess with intent to use, or use, any restricted eggs in the preparation of human food for commerce except that such eggs may be so possessed and used when authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(b)(1) No person shall process any egg products for commerce at any plant except in compliance with the requirements of this Act.

(2) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in commerce any egg products required to be inspected under this Act unless they have been so inspected and are labeled and packaged in accordance with the requirements of section 7 of this Act.

(3) No operator of any official plant shall fail to comply with any rquirements of paragraph (a) of section 6 of this Act or the regulations thereunder.

(4) No operator of any official plant shall allow any egg products to be moved from such plant if they are adulterated or misbranded and capable of use as human food.

(c) No person shall violate any provision of section 10, 11, or 17 of this Act.

(d) No person shall—

(1) manufacture, cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary;

(2) forge or alter any official device, mark, or certificate;

(3) without authorization from the Secretary, use any official device, mark, or certificate, or simulation thereof, or detach, deface, or destroy any official device or mark; or use any labeling or container ordered to be withheld from use under section 7 of this Act after final judicial affirmance of such order or expiration of the time for appeal if no appeal is taken under said scction;

(4) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(5) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label, or any eggs or egg products bearing any counterfeit, simulated, forged, or improperly altered official mark;

(6) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary;

(7) knowingly represent that any article has been inspected or exempted, under this Act, when, in fact, it has, respectively, not been so inspected or exempted; and

(8) refuse access, at any reasonable time, to any representative of the Secretary of Agriculture or the Secretary of Health, Edu-

cation, and Welfare, to any plant or other place of business subject to inspection under any provisions of this Act.

(e) No person, while an official or employee of the United States Government or any State or local governmental agency, or thereafter, shall use to his own advantage, or reveal other than to the authorized representatives of the United States Government or any State or other government in their official capacity, or as ordered by a court in a judicial proceeding, any information acquired under the authority of this Act concerning any matter which is entitled to protection as a trade secret.

FEDERAL AND STATE COOPERATION

SEC. 9. The Secretary shall, whenever he determines that it would effectuate the purposes of this Act, cooperate with appropriate State and other governmental agencies, in carrying out any provisions of this Act. In carrying out the provisions of this Act, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any such agency commissioned by him for such purpose. The Secretary shall reimburse the States and other agencies for the costs incurred by them in such cooperative programs.

EGGS AND EGG PRODUCTS NOT INTENDED FOR HUMAN FOOD

SEC. 10. Inspection shall not be provided under this Act at any plant for the processing of any egg products which are not intended for use as human food, but such articles, prior to their offer for sale or transportation in commerce, shall be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation, in commerce, any restricted eggs or egg products which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary.

RECORD AND RELATED REQUIREMENTS FOR PROCESSORS OF EGGS AND EGG PRODUCTS AND RELATED INDUSTRIES

SEC. 11. For the purpose of enforcing the provisions of this Act and the regulations promulgated thereunder, all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in commerce or holding such articles so received, and all egg handlers, shall maintain such records showing, for such time and in such form and manner, as the Secretary of Agriculture or the Secretary of Health, Education, and Welfare may prescribe, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of a duly authorized representative of either of said Secretaries, permit him at reasonable times to have access to and to copy all such records.

PENALTIES

SEC. 12. (a) Any person who commits any offense prohibited by section 8 of this Act shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine, but if such violation involves intent to defraud, or any distribution or attempted distribution of any article that is known to be adulterated (except as defined in section 4(a)(8) of this Act), such person shall be subject to imprisonment for not more than three years or a fine of not more than $10,000, or both. When construing or enforcing the provisions of section 8, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(b) No carrier or warehouseman shall be subject to the penalties of this Act, other than the penalties for violation of section 11 of this Act or paragraph (c) of this section 12, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier or warehouseman of eggs or egg products owned by another person unless the carrier or warehouseman has knowledge, or is in possession of facts which would cause a reasonable person to believe that such eggs or egg products were not eligible for transportation under, or were otherwise in violation of, this Act, or unless the carrier or warehouseman refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such eggs or egg products and copies of all documents, if there be any, pertaining to the delivery of the eggs or egg products to, or by, such carrier or warehouseman.

(c) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such act, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punished as provided under sections 1111 and 1112 of title 18, United States Code.

REPORTING OF VIOLATIONS

SEC. 13. Before any violation of this Act is reported by the Secretary of Agriculture or Secretary of Health, Education, and Welfare to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this Act shall be construed as requiring the Secretary of Agriculture or Secretary of Health, Education, and Welfare to report for criminal prosecution violations of this Act whenever he believes that the public interest will be adequately served and compliance with the Act obtained by a suitable written notice of warning.

REGULATIONS AND ADMINISTRATION

SEC. 14. The Secretary shall promulgate such rules and regulations as he deems necessary to carry out the purposes or provisions of this Act, and shall be responsible for the administration and enforcement of this Act except as otherwise provided in paragraph (d) of section 5 of this Act.

EXEMPTIONS

SEC. 15. (a) The Secretary may, by regulation and under such conditions and procedures as he may prescribe, exempt from specific provisions of this Act—

(1) the sale, transportation, possession, or use of eggs which contain no more restricted eggs than are allowed by the tolerance in the official standards of United States consumer grades for shell eggs;

(2) the processing of egg products at any plant where the facilities and operating procedures meet such sanitary standards as may be prescribed by the Secretary, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of United States consumer grades for shell eggs, and the egg products processed at such plant;

(3) the sale of eggs by any poultry producer from his own flocks directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(4) the processing of egg products by any poultry producer from eggs of his own flocks' production for sale of such products directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the egg products so processed when handled in accordance with this paragraph;

(5) the sale of eggs by shell egg packers on his own premises directly to household consumers for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(6) for such period of time (not to exceed two years) during the initiation of operations under this Act as the Secretary determines that it is impracticable to provide inspection, the processing of egg products at any class of plants and the egg products processed at such plants; and

(7) the sale of eggs by any egg producer with an annual egg production from less than five hundred hen flock.

(b) The Secretary may immediately suspend or terminate any exemption under paragraph (a) (2) or (6) of this section at any time with respect to any person, if the conditions of exemption prescribed by this section or the regulations of the Secretary are not being met. The Secretary may modify or revoke any regulation granting exemption under this Act whenever he deems such action appropriate to effectuate the purposes of this Act.

ENTRY OF MATERIALS INTO OFFICIAL PLANTS

SEC. 16. The Secretary may limit the entry of eggs and egg products and other materials into official plants under such conditions as he may prescribe to assure that allowing the entry of such articles into such plants will be consistent with the purposes of this Act.

IMPORTS

SEC. 17. (a) No restricted eggs capable of use as human food shall be imported into the United States except as authorized by regulations of the Secretary. No egg products capable of use as human food shall be imported into the United States unless they were processed under an approved continuous inspection system of the government of the foreign country of origin or subdivision thereof and are labeled and packaged in accordance with, and otherwise comply with the standards of this Act and regulations issued thereunder applicable to such articles within the United States. All such imported articles shall upon entry into the United States be deemed and treated as domestic articles subject to the other provisions of this Act: *Provided*, That they shall be labeled as required by such regulations for imported articles: *Provided further*, That nothing in this section shall apply to eggs or egg products purchased outside the United States by any individual for consumption by him and members of his household and his nonpaying guests and employees.

(b) The Secretary may prescribe the terms and conditions for the destructio of all such articles which are imported contrary to this section, unless (1) they are exported by the consignee within the time fixed therefor by the Secretary or (2) in the case of articles which are not in compliance solely because of misbranding, such articles are brought into compliance with this Act under supervision of authorized representatives of the Secretary.

(c) All charges for storage, cartage, and labor with respect to any article which is imported contrary to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter imported under this Act by or for such owner or consignee.

(d) The importation of any article contrary to this section is prohibited.

REFUSAL OF INSPECTION

SEC. 18. The Secretary (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) may refuse to provide or may withdraw inspection service under this Act with respect to any plant if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this Act, because the applicant or recipient or anyone responsibly connected with the applicant or recipient has been convicted in any Federal or State court, within the previous ten years, of (1) any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food, or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he is a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock, or employee in a managerial or executive capacity.

The determination and order of the Secretary with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the United States court of appeals for the circuit in which such applicant or recipient has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 204 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 194) shall be applicable to appeals taken under this section.

This section shall not affect in any way other provisions of this Act for refusal of inspection services.

ADMINISTRATIVE DETENTION

SEC. 19. Whenever any eggs or egg products subject to the Act, are found by any authorized representative of the Secretary upon any premises and there is reason to believe that they are or have been processed, bought, sold, possessed used, transported, or offered or received for sale or transportation in violation of this Act or that they are in any other way in violation of this Act, or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary, such articles may be detained by such representative for a reasonable period but not to exceed twenty days, pending action under section 20 of this Act or notification of any Federal, State, or other governmental authorities having jurisdiction over such articles and shall not be moved by any person from the place at which they are located when so detained until released by such representative. All official marks may be required by such representative to be removed from such articles before they are released unless it appears to the satisfaction of the Secretary that the articles are eligible to retain such marks.

JUDICIAL SEIZURE PROCEEDINGS

SEC. 20. (a) Any egg or egg products that are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation, in violation of this Act, or in any other way are in violation of this Act; and any restricted eggs, capable of use as human food, in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary shall be liable to be proceeded against and seized and condemned, at any time, on a complaint in any United States district court or other proper court as provided in section 21 of this Act within the jurisdiction of which the articles are found. If the articles are condemned they shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the articles shall not be sold contrary to the provision of this Act, the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which they are sold: *Provided*, That upon the execution and delivery of a good and sufficient bond conditioned that the articles shall not be sold or otherwise disposed of contrary to the provisions of this Act, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which disposal is made, the court may direct that they be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the articles and they are released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant thereof. The proceedings in such cases shall conform, as nearly as may be, to the supplemental rules for certain admiralty and maritime claims, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Act, or other laws.

JURISDICTION

SEC. 21. The United States district courts and the District Court of the Virgin Islands are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act, and shall have jurisdiction in all other cases, arising under this Act, except as provided in section 18 of this Act. All proceedings for the enforcement or to restrain violations of this Act shall be by and in the name of the United States. Subpenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

APPLICABILITY OF OTHER ACTS

SEC. 22. For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Federal Trade Commission Act, as amended (38 Stat. 721–723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraphs (c) through (h) of section 6 and the last paragraph of section 9), and the provisions of subsection 409(1) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409(1)), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred by said sections 9 and 10 of the Federal Trade Commission Act, as amended, on the district courts of the United States may be exercised for the purposes of this Act by any court designated in section 21 of this Act.

RELATION TO OTHER AUTHORITIES

SEC. 23. (a) Requirements within the scope of this Act with respect to premises, facilities, and operations of any official plant which are in addition to or different than those made under this Act may not be imposed by any State or local jurisdiction except that any such jurisdiction may impose recordkeeping and other requirements within the scope of section 11 of this Act, if consistent therewith, with respect to any such plant.

(b) For eggs which have moved or are moving in interstate or foreign commerce, (1) no State or local jurisdiction may require the use of standards of quality, condition, weight quantity, or grade which are in addition to or different from the official Federal standards, and (2) no State or local jurisdiction other than those in noncontiguous areas of the United States may require labeling to show the State or other geographical area of production or origin: *Provided, however,* That this shall not preclude a State from requiring that the name, address, and license number of the person processing or packaging eggs, be shown on each container. Labeling, packaging, or ingredient requirements, in addition to or different than those made under this Act, the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, may not be imposed by any State or local jurisdiction, with respect to egg products processed at any official plant in accordance with the requirements under such Acts. However, any State or local jurisdiction may exercise jurisdiction with respect to eggs and egg products for the purpose of preventing the distribution for human food purposes of any such articles which are outside of such a plant and are in violation of any of said Federal Acts or any State or local law consistent therewith. Otherwise the provisions of of this Act shall not invalidate any law or other provisions of any State or other jurisdiction in the absence of a conflict with this Act.

(c) The provisions of this Act shall not affect the applicability of the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act or other Federal laws to eggs, egg products, or other food products or diminish any authority conferred on the Secretary of Health, Education, and Welfare or other Federal officials by such other laws, except that the Secretary of Agriculture shall have exclusive jurisdiction to regulate official plants processing egg products and operations thereof as to all matters within the scope of this Act.

(d) The detainer authority conferred on representatives of the Secretary of Agriculture by section 19 of this Act shall also apply to any authorized representative of the Secretary of Health, Education, and Welfare for the purposes of paragraph (d) of section 5 of this Act, with respect to any eggs or egg products that are outside any plant processing egg products.

COST OF INSPECTION

SEC. 24. (a) The cost of inspection rendered under the requirements of this Act, and other costs of administration of this Act, shall be borne by the United States, except that the cost of overtime and holiday work performed in official plants subject to the provisions of this Act at such rates as the Secretary may determine shall be borne by such official plants. Sums received by the Secretary from official plants under this section shall be

available without fiscal year limitation to cary out the purposes of this Act.

(b) The term "holiday" for the purposes of assessment or reimbursement of the cost of inspection performed under this Act, the Wholesome Poultry Products Act, and the Wholesome Meat Act shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, title 5 of the United States Code.

SMALL BUSINESS ASSISTANCE

SEC. 25. (a) Section 7(b) of the Small Business Act is amended—

(1) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and "; and

(2) by adding after paragraph (4) a new paragraph as follows:

"(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed by the Egg Products Inspection Act, the Wholesome Poultry and Poultry Products Act, and the Wholesome Meat Act of 1967 or State laws enacted in conformity therewith, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The third sentence of section 7(b) of such Act is amended by inserting "or (5)" after "paragraph (3)".

(c) Section 4(c)(1) of the Small Business Act is amended by inserting "7(b)(5)", after "7(b)(4),".

ANNUAL REPORT

SEC. 26. (a) Not later than March 1 of each year following the enactment of this Act the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate a comprehensive and detailed written report with respect to—

(1) the processing, storage, handling, and distribution of eggs and egg products subject to the provisions of this title; the inspection of establishments operated in connection therewith; the effectiveness of the operation of the inspection, including the effectiveness of the operations of State egg inspection programs; and recommendations for legislation to improve such program; and

(2) the administration of section 17 of this Act (relating to imports) during the immediately preceding calendar year, including but not limited to—

(A) a certification by the Secretary that foreign plants exporting eggs or egg products to the United States have complied with requirements of this Act and regulations issued thereunder;

(B) the names and locations of plants authorized or permitted to export eggs or egg products to the United States;

(C) the number of inspectors employed by the Department of Agriculture in the calendar year concerned who were assigned to inspect plants referred to in paragraph (B) hereof and the frequency with which each such plant was inspected by such inspectors;

(D) the number of inspectors that were licensed by each country from which any imports were received and that were assigned, during the calendar year concerned, to inspect such imports and the facilities in which such imports were handled; and the frequency and effectiveness of such inspections;

(E) the total volume of eggs and egg products which was imported into the United States during the calendar year concerned from each country, including a separate itemization of the volume of each major category of such imports from each country during such year, and a detailed report of rejections of plants and products because of failure to meet appropriate standards prescribed by this title; and

(F) recommendations for legislation to improve such program.

APPROPRIATIONS

SEC. 27. Such sums as are necessary to carry out the provisions of this Act are hereby authorized to be appropriated.

SEPARABILITY OF PROVISIONS

SEC. 28. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DAY

SEC. 29. The provisions of this Act with respect to egg products shall take effect six months after enactment. Otherwise, this Act shall take effect eighteen months after enactment.

With the following committee amendment:

Page 24, lines 13 and 14, strike out the words "less than five hundred hen flock." and insert in lieu thereof the following: "a flock of 3,000 or less hens.".

The committee amendment was agreed to.

Mr. MATSUNAGA. Mr. Speaker, I commend the distinguished gentleman from Kentucky (Mr. STUBBLEFIELD) for the fair manner in which he conducted consideration of the pending measure in his subcommittee. I would have been constrained to object to the gentleman's request, had it not been for the acceptance of my amendment by his committee and its inclusion in H.R. 19888. I can now rise in support of this bill.

Mr. Speaker, H.R. 19888, the egg products inspection bill, is designed primarily to assure consumers of an adequate supply of fresh, wholesome eggs, and egg products. The proponents of the measure fully realize that the sale of dirty, adulterated eggs endangers not only the health of those buying the eggs, but also the economic well-being of the egg producers who are trying to provide the public with quality eggs and egg products at reasonable prices.

As Hawaii's Representative to Congress I was deeply concerned about the effect of section 23(b) of the Senate-passed measure. Without the amendment which I proposed and which is in the House bill, the Senate bill would have killed Hawaii's egg producing industry, which adds $7.7 million annually to the economy of the Aloha State.

The House bill provides an exemption from the labeling requirements of section 23(b) to the noncontiguous areas of the United States, including Alaska, Puerto Rico, the Virgin Islands, and Hawaii. I am grateful to the House Agriculture Committee, especially to the Chairman of its Subcommittee on Dairy and Poultry, Mr. STUBBLEFIELD, for this. I believe the committee made a responsible and just decision on this point.

Without this exemption, Hawaii's egg consumers, too, would suffer. They would be denied the right they now enjoy to choose between fresh eggs produced in Hawaii and stale eggs produced in foreign areas. Hawaii's consumers have exercised that right vigorously, to the point where fully 96 percent of the eggs sold in the Island State are island eggs, despite the fact that imported eggs sell for 9 to 10 cents per dozen less than local eggs.

With the inclusion of the exemption from the labeling requirements for noncontiguous areas, H.R. 19888 is a bill which is fair to consumers and producers alike, in Hawaii and the Nation.

I therefore urge unanimous approval.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COAST GUARD REAR ADMIRAL ELLIS, WHO GAVE THE ORDER TO HAND BACK THE LITHUANIAN DEFECTOR TO THE RUSSIANS, SHOULD BE DISCIPLINED

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, I believe enough evidence has now come to light both in the press and in the investigation underway in the House committee, so that it is obvious that the person primarily responsible for this shocking, stupid, and probably very costly fiasco in connection with the Lithuanian sailor who was turned back forcibly to the Russians, was the rear admiral in charge of the Boston District of the Coast Guard, Rear Adm. William Ellis, who gave the order. I believe that Admiral Ellis ought to be disciplined, and disciplined promptly, for his role in this tragic case, so that it will be clear to the whole world that we in this country are not taking this incident lightly and that we still believe in and will enforce our traditional policy of providing a refuge for people who want to defect from Soviet tyranny.

I realize that the performance of the State Department was not especially brilliant in this case either, as it has not been in other cases, but I believe the basic responsibility lies with the man who gave the unusual and incredible order to turn the defector forcibly back to the Russians. He was an admiral, after all, and when one gets to be an admiral, one is expected to be knowledgeable about many other things than just driving ships. Admiral Ellis had that responsibility. The tragic action occurred on his watch. It occurred as a result of his order, and that order flew in the face of what any schoolboy knows has been America's traditional practice and policy.

So, if we really mean business in enforcing our traditional policy of asylum to those seeking it, then I believe the responsible officer ought to be disciplined, and disciplined promptly.

CORRECTION OF VOTE

Mr. MATSUNAGA. Mr. Speaker, on rollcall No. 393 I am recorded as not voting. I was present and voted "nay." I ask unanimous consent that the permanent RECORD and Journal be corrected accordingly.

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY; NOT TO BE QUOTED OR CITED)

For actions of December 14, 1970
91st-2nd; No. 200

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HIGHLIGHTS: Conference report on water carrier mixing bill printed.
Senate passed egg inspection bill without amendment.
Senate passed supplemental appropriations bill with amendments.

SENATE

1. EGG INSPECTION. Passed without amendment H.R. 19988, providing for inspection of certain egg products by the Department of Agriculture. This bill now goes to the President. p. S20124

2. APPROPRIATIONS. Passed H.R. 19928, making supplemental appropriations for FY 1971, adopting all committee amendments and four additional amendments. This bill contains funds for the Forest Service and the Youth Conservation Corps. pp. S20102-33

Received proposed supplemental appropriation from the President to cover claims and judgments rendered against the United States. p. S20070

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3. WATER RESOURCES; LAND USE. Sen. Jackson reported favorably from the Committee on Interior and Insular Affairs, with an amendment, S. 3354, to amend the Water Resources Planning Act to include provision for national land use policy, (S. Rept. No. 91-1435). p. S20071

4. INTERNATIONAL TRADE. Sen. Javits placed in the Record the latest analysis of the U.S. trade position prepared by the Department of Defense, which reflects rise in farm exports. pp. S20079-81

HOUSE

5. WATER CARRIERS. Conferees filed a report on H.R. 8298, the water carrier mixing rule bill and the text was included in the Record (H. Rept. 91-1744). pp. H11669-70, H11681

6. COMMITTEE ACTION.

Committee on Education and Labor reported with amendment S. 11, proposed Intergovernmental Personnel Act of 1970 (H. Rept. 91-1733). p. H11681

Committee on Ways and Means reported with amendment H.R. 19242, to amend the Internal Revenue Code of 1954, to extend its application from citrus groves to almond groves (H. Rept. 91-1737). p. H11681

Conferees filed a report on H.R. 17867, FY 71 foreign assistance appropriations (H. Rept. 91-1745). p. H11681

Conferees agreed to file a report on S. 2162, regarding the packaging of hazardous substances. p. D1273

EXTENSION OF REMARKS

7. FOOD STAMPS. Rep. O'Hara criticized those who would deny food stamps to strikers noting that the right to withhold one's labor was unique to a free society and should not be subject to forced bargaining because of hunger. pp. E10398-400

8. FARMERS. Rep. Zwach stressed the need to increase parity of farm prices to keep the farming segment of the economy from complete financial ruin. p. E10407

BILLS INTRODUCED

9. TOBACCO. S.J. Res. 249 by Sen. Cooper, and H.J. Res. 1415 by Rep. Wampler, to extend the time for the proclamation of marketing quotas for burley tobacco for the 3 marketing years beginning October 1, 1971; to the Committee on Agriculture. Remarks of author (S.J. Res. 249), p. S20133.

resources at all levels of educational efforts in the Nation.

PART III. LOOKING TO THE FUTURE

A National Commitment to Environmental Education

Beginning with the recognition by many individuals that a new attitude toward the environment—one of awareness and concern—is necessary to preserve the environment, we now have a national commitment to face and resolve environmental problems through educational means.

Individual concern and action is required in a democratic society before special interests (business, labor, universities) will act responsibly and before the Government will set guidelines or impose legal sanctions. Such a consensus, elicited through the educational process, is not only necessary, it provides the knowledge and the way to accomplish the objectives of environmental improvement.

As individuals reorient their lives to ecologically consistent styles, and groups and communities work through all social and political processes to redirect formal and nonformal education toward environmental and ecological goals, we have a national movement or commitment towards change.

The President of the United States has authority to pull together a wide range of Federal programs to give a truly coordinated and national thrust to EE. The Office of Education has been designated by the Environmental Education Act as the agency to plan and recommend such overall educational programs.

Citizen of the future

Man, having spent eons in the Stone Age learning to live with his environment and being responsive to it, has subsequently spent a few thousand years attempting to live apart from his natural environment—to control it for his own purposes—and has suffered many ecological dislocations as a result. Now, entering the age of Technological Man, he has faced up to the decision of either further separating himself from nature and from his environment (thereby dehumanizing himself) or of recognizing his dual nature and learning to live within his environment (protecting and restoring his environment, rather than debasing it, through the great powers of technology).

The same skills used by man in coordinating his knowledge and abilities to put a man on the moon may now be used to restore the environment and to provide for a satisfying life for great numbers of people without further jeopardizing the biosphere of Earth.

The citizen of the future will be well aware of ecological processes, not merely as to nature as he has conceived it in the past but also with respect to man-made environments.

Environmental education enables man to retain his place as the dominant species, but it will also help him to find his place as part of a larger entity, the living Earth. Man will be highly educated in the best sense, rounded and whole, for his very life and life styles will be immensely enriched by environmental education.

[From the New York Times, Dec. 6, 1970]

EDUCATORS MEET ON ENVIRONMENT—THREE-DAY SESSION EXAMINES TEACHING OF THE SUBJECT

(By David Bird)

GREEN BAY, WIS., December 5.—Environmentalists and educators from across the country have just spent three days here in one of the first national attempts to bring environmental teaching past the point of nature study and admonitions against littering.

While the meeting, organized by the University of Wisconsin campus here, brought out the need for teaching more about the pollution that threatened today's world, it also emphasized difficulties in facing that problem headon.

The 150 participants invited to the meeting generally agreed that environmental teaching that is geared to a rural America is far out of date at a time when more than seven out of 10 Americans live in an urban setting.

"How do you teach contour plowing to children who live on the 15th floor of a high-rise apartment?" asked Dr. Robert Roth, professor of environmental studies at Ohio State University.

STUDY OF CAUSES URGED

There is a need, he said, to study the political and social causes of the environmental breakdown.

The conference was held here because the university's new Green Bay campus focuses its entire academic program on environmental problems. Joining in sponsoring the conference were the United States office of Education and the National Audubon Society.

Educators were singled out for some of the blame on the lag in environmental teaching.

"The educational establishment is a hidebound bureaucracy," said Dr. George E. Lowe, coordinator for environmental education in the Federal Office of Education.

He said that teachers were often afraid to teach programs relevant to today's environment because they might be subject to questions they could not answer.

Others noted that it was much safer to teach about a subject such as conservation of forests because that was further from immediate problems of urban blight and thus less likely to provoke difficult questions.

TEACHING CRITICIZED

Dr. James Swan, of the University of Michigan's School of Natural Resources and Institute for Social Research, said that much of today's teaching was "anti-environmental."

"We have always been taught that all growth is good," he said, "yet physical and economic growth are not compatible with pollution control. A deep seated idea in American society is personal freedom and yet personal freedom with no regard to social responsibility produces many of our environmental problems."

Dr. Swan said such attitudes could cause people to "repress their knowledge of the causes of pollution and, instead, focus their concern for the environment on finding nonthreatening methods of attacking the symptoms."

Dr. Swan also attacked the design of modern school sites as ecologically barren, with few trees and a great deal of asphalt.

CHILDREN AS DESIGNERS

"The average American school site," he said, "is developed for adult maintenance men and not children. Hopefully, in the future we will ask children to design their own school sites."

The ideas brought out at the conference stirred some frustration about how to translate them into action.

"Where do we begin? What can Miss Jones in grade 2 do?" was a plea in one of several discussion groups that met to consider how to implement new ideas.

Because this was the first National Conference on Environmental Education, the answers were preliminary and general.

Most of the suggestions for action stressed that teachers should avoid preaching the ecological message. Students, it was held, should not just be compelled to memorize ecological facts; they should examine their own environments and find out what can be done about them.

[From The New York Times, Dec. 9, 1970]

ECOLOGY IS ONLY ACADEMIC PROBLEM FOR STUDENTS AT NEW WISCONSIN CAMPUS

(By David Bird)

GREEN BAY, WIS.—The problems of the environment seem far away from the sparkling new buildings on the University of Wisconsin campus on 600 rolling, wooded acres here.

But down in the valley, the Fox River is murky with the contamination of more than a dozen paper mills, and, on the campus itself, no topic gets more attention than the environment. In fact, the entire academic focus for the 4,000 students here is on ecology—on man and his environment.

There are none of the traditional departments and few of the rigid structures on this autonomous campus, which was added to the University of Wisconsin's system in 1969.

Instead a student chooses an environmental problem that forms the whole basis of his study. He then chooses courses from many fields that contribute to solving that problem. Required courses are kept at a minimum.

PRIMARY FOCUS: ECOLOGY

As Chancellor Edward W. Weidner, the chief developer of the unusual academic focus here, puts it: "Disciplines and professions are secondary, ecological problems are primary."

A student may choose an environmental problem with a scientific basis such as controlling pollution in the air or water. He may choose a problem of the social environment such as urban decay. Or it may be a problem of how to communicate with other human beings to solve ecological problems.

With the growing concern over environmental crises, this campus has drawn a wide variety of people to this northeastern Wisconsin community.

A three-day conference last week for example brought together some 150 environmentalists and educators from across the nation who used the example here in an attempt to create more relevant environmental education in the nation's schools.

PHILOSOPHY EXPLAINED

Those at the meeting—the first National Conference on Environmental Education—heard Chancellor Weidner explain some of the philosophy that guides the campus.

Much of education today, Dr. Weidner feels, is a series of "meaningless vignettes" unrelated to the problems at hand.

"You can spend a lifetime in a corner of the library studying" he says, "but that's ridiculous unless it's related to a problem that must be solved."

Dr. Weidner thinks that a professor's main role is to help the student with that problem solving.

He is especially critical of professors who bury themselves in research and "pride themselves on how they don't teach undergraduates."

"There is a euphoric religious feeling about the experimental program underlying our staff," he said.

Professors interviewed on the campus generally agreed and said that the informal seminar-type approach allowed for some class meetings to be held at the faculty member's home over coffee or beer.

Students on the campus, too, seem to welcome the idea of having a great deal of time to work on their own toward reaching their goals.

But some of them who had to compare it with took the new program somewhat for granted.

"Sure it's different from school," said one, "but this is college; it's supposed to be different, isn't it?"

Dr. Weidner feels strongly that a person should learn his own environment before he goes on to study others so that he can relate his own problems to the new experience.

Too often, Dr. Weidner said, programs in international education where American students spend some of their academic year abroad are really just means of escaping the task at home.

While they are studying at the university here students are encouraged to concentrate first on the problems at hand.

For example students here insisted that a concessionaire use returnable bottles in a beverage vending machine instead of one-way cans that would end up as waste.

They checked closely on the kind of detergent and other cleaners the university uses to make sure the substances will not end up as pollution in the river.

They recommended a change in newly installed outdoor lamps they felt were too harsh and glaring.

Although such actions may seem inconsequential, Dr. Weidner feels that an attitude of concern for the environment on campus can expand to understanding and solving problems in the larger community.

Already teams of students have gone out to study pollution in the Fox River and what can be done about it.

Other teams of students are working on how to mobilize community action to solve the problem of the river.

Dr. Weidner concedes that the environmental crisis is a very popular cause today. But he sees environmental education as not just another element. It must be an integral part, he said, because it is a "fundamental of life," he says.

"There can be no true peace or true love without environmental quality," he said. "The cardinal virtues of peace and love are integrally related to environmental quality."

[From the Washington Post, Nov. 29, 1970]

EDUCATING THE PUBLIC TO SURVIVAL'S KEYS

(By Irston R. Barnes)

Looking back on the long years of efforts by conservationists to create public awareness of the perils to the earth and to man from a degraded and polluted environment, the National Environmental Policy Act of 1969 and the recently enacted Environmental Education Act mark the crossing of a great divide. At last there are both official recognition of the problem and an expressed determination to take action.

Underlying both acts is an acknowledgment that man is, and must remain, a part of the natural world. The goal—a state of "productive harmony" between man and nature—can be reached only through an understanding of and adaptation to the ecological imperatives of the natural world. It is the purpose of the Environmental Education Act to promote such public understanding as the price of survival.

The National Environmental Policy Act embodies three achievements. It is a declared national policy to maintain and to restore a viable environment. All governmental programs are to be judged for consistency with this policy. And a Council on Environmental Quality is created to study and report on the state of the environment. The council has recently issued its first landmark Environmental Quality Report.

The Environmental Education Act is directed to the root problems of creating public understanding and stimulating citizen action to halt the degradation of the environment and to begin its restoration.

Grants are to be used to secure the development of improved curriculums, the initiation of programs in schools and colleges, the preparation and dissemination of teaching materials and information.

Very wisely, the search for educational programs is not to be limited to schools and colleges, for we cannot wait for an educated generation to grow up. It is today's adults who must change their ways and bring an early reversal of the antagonistic relations between man and nature.

Wisely again, the act does not limit its search for effective environmental education to the professional educators.

The pioneers in such education have been such organizations as the National Audubon Society, with its school clubs and its summer nature camps for training teachers and community leaders to use the outdoors for classrooms in both formal school programs and in adult community activities, and the Massachusetts Audubon Society, which first hired and trained supplemental teachers and sent them into the schools across the state.

The act is necessarily interested, not only in the problems of natural environments, but also of man-made environments, since the latter are the prevalent environments for most of our people. However, any understanding of ecological systems and of man's place on earth must proceed from a basic appreciation of the workings of nature in both natural environments and in man-altered and man-degraded environments.

In the latter, the workings of nature are not likely to be beneficent to man.

It is unfortunate that the terms ecology, environmental quality and conservation carry heavy negative connotations for many people. Perhaps this is an inevitable result of the serious and pervasive abuse which the environment has undergone in the past half-century.

However, ecology and natural history are fascinating areas of discovery; they are much more important for their positive principles and values than for any "do-nots."

Man will never live in harmony with nature until he appreciates the fundamental wisdom of natural systems, the essential rightness of the intricate ways in which nature maintains a balanced richness and diversity in life, and the human values which are lost when man is alienated from the natural world.

These truths are remote and abstract for people who are increasingly urban and have little experience with the world of nature. Yet these are the very values which have guided such volunteer organizations as the Sierra Club, the Izaak Walton League and the Audubon Societies, as they have borne the brunt of conservation education since the turn of the century.

The success of the Environmental Education Act will depend upon its role in persuading a majority of adults to take early and direct action in their neighborhoods, in their towns, in their businesses and in their personal lives to protect and restore the environment.

There is a ready-made nucleus of leaders for such local and regional action programs through organizing environmental councils of members of existing conservation organizations. Administrators of the act should make an early effort to achieve an ecumenical mobilization of this citizen's potential.

Through national and state conservation organizations, the trained leadership which is an ultimate goal of environmental education can be located and activated. Here are the channels through which educational materials and action programs can be transmitted to virtually every community.

The conservation organizations, which have worked so many years to achieve such governmental actions as the National Environmental Policy Act and the Environmental Education Act, and their thousands of members are ready and willing to move from advocacy to action.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator for his comments. May I say that he appeared before the subcommittee and make a splendid presentation with reference to the item. I compliment him on the excellent justification he made.

INSPECTION OF CERTAIN EGG PRODUCTS BY THE U.S. DEPARTMENT OF AGRICULTURE

Mr. AIKEN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 19888.

The PRESIDING OFFICER (Mr. BOGGS) laid before the Senate H.R. 19888, an act to provide for the inspection of certain egg products by the U.S. Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this act, and for other purposes, which was read twice by its title.

Mr. AIKEN. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. AIKEN. Mr. President, this bill passed the Senate unanimously on the 2d of February 1970, and was then sent to the House. Instead of acting on the Senate bill, the House passed its own bill, which is the Senate bill with amendments. The amendments seem to be satisfactory all around.

Mr. President, I have cleared this matter with several members of the committee including the chairman.

The PRESIDING OFFICER. The bill before the Senate is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 19888) was ordered to a third reading, was read the third time, and passed.

Mr. AIKEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SST CONFERENCE REPORT

Mr. NELSON. Mr. President, articles in the Sunday newspapers of December 13 allege that a filibuster over SST funds threatens to block the passage of other important pending legislation including welfare reform and social security. It is certainly true that if there is to be a sustained effort to push SST funds

91ST CONGRESS
2D SESSION

H. R. 19888

IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 1970

Received; read twice, considered, read the third time, and passed

AN ACT

To provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Egg Products Inspection Act".

LEGISLATIVE FINDING

SEC. 2. Eggs and egg products are an important source of the Nation's total supply of food, and are used in food

in various forms. They are consumed throughout the Nation and the major portion thereof moves in interstate or foreign commerce. It is essential, in the public interest, that the health and welfare of consumers be protected by the adoption of measures prescribed herein for assuring that eggs and egg products distributed to them and used in products consumed by them are wholesome, otherwise not adulterated, and properly labeled and packaged. Lack of effective regulation for the handling or disposition of unwholesome, otherwise adulterated, or improperly labeled or packaged egg products and certain qualities of eggs is injurious to the public welfare and destroys markets for wholesome, not adulterated, and properly labeled and packaged eggs and egg products and results in sundry losses to producers and processors, as well as injury to consumers. Unwholesome, otherwise adulterated, or improperly labeled or packaged products can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged products, to the detriment of consumers and the public generally. It is hereby found that all egg products and the qualities of eggs which are regulated under this Act are either in interstate or foreign commerce, or substantially affect such commerce, and that regulation by the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, and cooperation

by the States and other jurisdictions, as contemplated by this Act, are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers.

DECLARATION OF POLICY

SEC. 3. It is hereby declared to be the policy of the Congress to provide for the inspection of certain egg products, restrictions upon the disposition of certain qualities of eggs, and uniformity of standards for eggs, and otherwise regulate the processing and distribution of eggs and egg products as hereinafter prescribed to prevent the movement or sale for human food, of eggs and egg products which are adulterated or misbranded or otherwise in violation of this Act.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) The term "adulterated" applies to any egg or egg product under one or more of the following circumstances—

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2) (A) if it bears or contains any added poisonous or added deleterious substance (other than one which is

(i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

(C) if it bears or contians any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

(D) if it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug and Cosmetic Act: *Provided,* That an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the Secretary in official plants;

(3) if it consists in whole or in part of any filthy, putrid, or decmoposed substance, or if it is otherwise unfit for human food;

(4) if it has been prepared, packaged, or held under insanitary conditions whereby it may have become

contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(b) The term "capable of use as human food" shall apply to any egg or egg product, unless it is denatured, or otherwise identified, as required by regulations prescribed by the Secretary to deter its use as human food.

(c) The term "commerce" means interstate, foreign, or intrastate commerce.

(d) The term "container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(1) The term "immediate container" means any consumer package; or any other container in which egg products, not consumer packaged, are packed.

(2) The term "shipping container" means any container used in packaging a product packed in an immediate container.

(e) The term "egg handler" means any person who engages in any business in commerce which involves buying or selling any eggs (as a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food.

(f) The term "egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products.

(g) The term "egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

(1) The term "check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(2) The term "clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(3) The term "dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(4) The term "incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(5) The term "inedible" means eggs of the following descriptions: black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(6) The term "leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that

the egg contents are exposed or are exuding or free to exude through the shell.

(7) The term "loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(8) The term "restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(h) The term "Fair Packaging and Labeling Act" means the Act so entitled, approved November 3, 1966 (80 Stat. 1296), and Acts amendatory thereof or supplementary thereto.

(i) The term "Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto.

(j) The term "inspection" means the application of such inspection methods and techniques as are deemed necessary by the responsible Secretary to carry out the provisions of this Act.

(k) The term "inspector" means:

(1) any employee or official of the United States Government authorized to inspect eggs or egg products under the authority of this Act; or

(2) any employee or official of the government of any State or local jurisdiction authorized by the Secretary to inspect eggs or egg products under the authority of this Act, under an agreement entered into between the Secretary and the appropriate State or other agency.

(l) The term "misbranded" shall apply to egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the Secretary under section 7 of this Act.

(m) The term "official certificate" means any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person performing official functions under this Act.

(n) The term "official device" means any device prescribed or authorized by the Secretary for use in applying any official mark.

(o) The term "official inspection legend" means any symbol prescribed by regulations of the Secretary showing that egg products were inspected in accordance with this Act.

(p) The term "official mark" means the official inspection legend or any other symbol prescribed by regulations of the Secretary to identify the status of any article under this Act.

(q) The term "official plant" means any plant, as de-

termined by the Secretary, at which inspection of the processing of egg products is maintained by the Department of Agriculture under the authority of this Act.

(r) The term "official standards" means the standards of quality, grades, and weight classes for eggs, in effect upon the effective date of this Act, or as thereafter amended, under the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 7 U.S.C. 1621 et seq.).

(s) The term "pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful viable micro-organisms by such processes as may be prescribed by regulations of the Secretary.

(t) The term "person" means any individual, partnership, corporation, association, or other business unit.

(u) The terms "pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" shall have the same meaning for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act.

(v) The term "plant" means any place of business where egg products are processed.

(w) The term "processing" means manufacturing egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(x) The term "Secretary" means the Secretary of Agriculture or his delegate.

(y) The term "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia.

(z) The term "United States" means the States.

INSPECTION, REINSPECTION, CONDEMNATION

SEC. 5. (a) For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any egg product which is capable of use as human food and is misbranded or adulterated, the Secretary shall, whenever processing operations are being conducted, cause continuous inspection to be made, in accordance with the regulations promulgated under this Act, of the processing of egg products, in each plant processing egg products for commerce, unless exempted under section 15 of this Act. Without restricting the application of the preceding sentence to other kinds of establishments within its provisions, any food manufacturing establishment, institution, or restaurant which uses any eggs that do not meet the requirements of paragraph (a) (1) of section 15 of this Act in the preparation of any articles for human food shall be deemed to be a plant processing egg products, with respect to such operations.

(b) The Secretary, at any time, shall cause such retention, segregation, and reinspection as he deems necessary of eggs and egg products capable of use as human food in each official plant.

(c) Eggs and egg products found to be adulterated at official plants shall be condemned and, if no appeal be taken from such determination of condemnation, such articles shall be destroyed for human food purposes under the supervision of an inspector: *Provided,* That articles which may by reprocessing be made not adulterated need not be condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the eggs or egg products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the Secretary determines that the appeal is frivolous. If the determination of condemnation is sustained, the eggs or egg products shall be destroyed for human food purposes under the supervision of an inspector.

(d) The Secretary shall cause such other inspections to be made of the business premises, facilities, inventory, operations, and records of egg handlers, and the records and inventory of other persons required to keep records under section 11 of this Act, as he deems appropriate (and

in the case of shell egg packers, packing eggs for the ultimate consumer, at least once each calendar quarter) to assure that only eggs fit for human food are used for such purpose, and otherwise to assure compliance by egg handlers and other persons with the requirements of section 8 of this Act, except that the Secretary of Health, Education, and Welfare shall cause such inspections to be made as he deems appropriate to assure compliance with such requirements at food manufacturing establishments, institutions, and restaurants, other than plants processing egg products. Representatives of said Secretaries shall be afforded access to all such places of business for purposes of making the inspections provided for in this Act.

SANITATION, FACILITIES, AND PRACTICES

SEC. 6. (a) Each official plant shall be operated in accordance with such sanitary practices and shall have such premises, facilities, and equipment as are required by regulations promulgated by the Secretary to effectuate the purposes of this Act, including requirements for segregation and disposition of restricted eggs.

(b) The Secretary shall refuse to render inspection to any plant whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

PASTEURIZATION AND LABELING OF EGG PRODUCTS AT OFFICIAL PLANTS

SEC. 7. (a) Egg products inspected at any official plant under the authority of this Act and found to be not adulterated shall be pasteurized before they leave the official plant, except as otherwise permitted by regulations of the Secretary, and shall at the time they leave the official plant, bear in distinctly legible form on their shipping containers or immediate containers, or both, when required by regulations of the Secretary, the official inspection legend and official plant number, of the plant where the products were processed, and such other information as the Secretary may require by regulations to describe the products adequately and to assure that they will not have false or misleading labeling.

(b) No labeling or container shall be used for egg products at official plants if it is false or misleading or has not been approved as required by the regulations of the Secretary. If the Secretary has reason to believe that any labeling or the size or form of any container in use or proposed for use with respect to egg products at any official plant is false or misleading in any particular, he may direct that such use be withheld unless the labeling or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to

use the labeling or container does not accept the determination of the Secretary, such person may request a hearing, but the use of the labeling or container shall, if the Secretary so directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the United States court of appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162, as amended; 7 U.S.C. 194), shall be applicable to appeals taken under this section.

PROHIBITED ACTS

SEC. 8. (a) (1) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in any business in commerce any restricted eggs, capable of use as human food, except as authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(2) No egg handler shall possess with intent to use, or use, any restricted eggs in the preparation of human food for commerce except that such eggs may be so pos-

sessed and used when authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(b) (1) No person shall process any egg products for commerce at any plant except in compliance with the requirements of this Act.

(2) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in commerce any egg products required to be inspected under this Act unless they have been so inspected and are labeled and packaged in accordance with the requirements of section 7 of this Act.

(3) No operator of any official plant shall fail to comply with any requirements of paragraph (a) of section 6 of this Act or the regulations thereunder.

(4) No operator of any official plant shall allow any egg products to be moved from such plant if they are adulterated or misbranded and capable of use as human food.

(c) No person shall violate any provision of section 10, 11, or 17 of this Act.

(d) No person shall—

(1) manufacture, cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark

or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary;

(2) forge or alter any official device, mark, or certificate;

(3) without authorization from the Secretary, use any official device, mark, or certificate, or simulation thereof, or detach, deface, or destroy any official device or mark; or use any labeling or container ordered to be withheld from use under section 7 of this Act after final judicial affirmance of such order or expiration of the time for appeal if no appeal is taken under said section;

(4) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(5) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label, or any eggs or egg products bearing any counterfeit, simulated, forged, or improperly altered official mark;

(6) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary;

(7) knowingly represent that any article has been inspected or exempted, under this Act, when, in fact, it has, respectively, not been so inspected or exempted; and

(8) refuse access, at any reasonable time, to any representative of the Secretary of Agriculture or the Secretary of Health, Education, and Welfare, to any plant or other place of business subject to inspection under any provisions of this Act.

(e) No person, while an official or employee of the United States Government or any State or local governmental agency, or thereafter, shall use to his own advantage, or reveal other than to the authorized representatives of the United States Government or any State or other government in their official capacity, or as ordered by a court in a judicial proceeding, any information acquired under the authority of this Act concerning any matter which is entitled to protection as a trade secret.

FEDERAL AND STATE COOPERATION

SEC. 9. The Secretary shall, whenever he determines that it would effectuate the purposes of this Act, cooperate with appropriate State and other governmental agencies, in carrying out any provisions of this Act. In carrying out the provisions of this Act, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any such

agency commissioned by him for such purpose. The Secretary shall reimburse the States and other agencies for the costs incurred by them in such cooperative programs.

EGGS AND EGG PRODUCTS NOT INTENDED FOR HUMAN FOOD

SEC. 10. Inspection shall not be provided under this Act at any plant for the processing of any egg products which are not intended for use as human food, but such articles, prior to their offer for sale or transportation in commerce, shall be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation, in commerce, any restricted eggs or egg products which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary.

RECORD AND RELATED REQUIREMENTS FOR PROCESSORS OF EGGS AND EGG PRODUCTS AND RELATED INDUSTRIES

SEC. 11. For the purpose of enforcing the provisions of this Act and the regulations promulgated thereunder, all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in commerce or holding such articles so received, and all egg handlers, shall maintain such records showing, for such time and in such form and manner, as the Secretary of Agriculture or the Secretary of Health, Education, and Welfare may prescribe, to the extent

that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of a duly authorized representative of either of said Secretaries, permit him at reasonable times to have access to and to copy all such records.

PENALTIES

SEC. 12. (a) Any person who commits any offense prohibited by section 8 of this Act shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine, but if such violation involves intent to defraud, or any distribution or attempted distribution of any article that is known to be adulterated (except as defined in section 4 (a) (8) of this Act), such person shall be subject to imprisonment for not more than three years or a fine of not more than $10,000, or both. When construing or enforcing the provisions of section 8, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(b) No carrier or warehouseman shall be subject to the penalties of this Act, other than the penalties for violation of

section 11 of this Act or paragraph (c) of this section 12, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier or warehouseman of eggs or egg products owned by another person unless the carrier or warehouseman has knowledge, or is in possession of facts which would cause a reasonable person to believe that such eggs or egg products were not eligible for transportation under, or were otherwise in violation of, this Act, or unless the carrier or warehouseman refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such eggs or egg products and copies of all documents, if there be any, pertaining to the delivery of the eggs or egg products to, or by, such carrier or warehouseman.

(c) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such act, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punished as provided under sections 1111 and 1112 of title 18, United States Code.

REPORTING OF VIOLATIONS

SEC. 13. Before any violation of this Act is reported by the Secretary of Agriculture or Secretary of Health, Education, and Welfare to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this Act shall be construed as requiring the Secretary of Agriculture or Secretary of Health, Education, and Welfare to report for criminal prosecution violations of this Act whenever he believes that the public interest will be adequately served and compliance with the Act obtained by a suitable written notice of warning.

REGULATIONS AND ADMINISTRATION

SEC. 14. The Secretary shall promulgate such rules and regulations as he deems necessary to carry out the purposes or provisions of this Act, and shall be responsible for the administration and enforcement of this Act except as otherwise provided in paragraph (d) of section 5 of this Act.

EXEMPTIONS

SEC. 15. (a) The Secretary may, by regulation and under such conditions and procedures as he may prescribe, exempt from specific provisions of this Act—

(1) the sale, transportation, possession, or use of

eggs which contain no more restricted eggs than are allowed by the tolerance in the official standards of United States consumer grades for shell eggs;

(2) the processing of egg products at any plant where the facilities and operating procedures meet such sanitary standards as may be prescribed by the Secretary, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of United States consumer grades for shell eggs, and the egg products processed at such plant;

(3) the sale of eggs by any poultry producer from his own flocks directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(4) the processing of egg products by any poultry producer from eggs of his own flocks' production for sale of such products directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the egg products so processed when handled in accordance with this paragraph;

(5) the sale of eggs by shell egg packers on his

own premises directly to household consumers for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(6) for such period of time (not to exceed two years) during the initiation of operations under this Act as the Secretary determines that it is impracticable to provide inspection, the processing of egg products at any class of plants and the egg products processed at such plants; and

(7) the sale of eggs by any egg producer with an annual egg production from a flock of three thousand or less hens.

(b) The Secretary may immediately suspend or terminate any exemption under paragraph (a) (2) or (6) of this section at any time with respect to any person, if the conditions of exemption prescribed by this section or the regulations of the Secretary are not being met. The Secretary may modify or revoke any regulation granting exemption under this Act whenever he deems such action appropriate to effectuate the purposes of this Act.

ENTRY OF MATERIALS INTO OFFICIAL PLANTS

SEC. 16. The Secretary may limit the entry of eggs and egg products and other materials into official plants under

such conditions as he may prescribe to assure that allowing the entry of such articles into such plants will be consistent with the purposes of this Act.

IMPORTS

SEC. 17. (a) No restricted eggs capable of use as human food shall be imported into the United States except as authorized by regulations of the Secretary. No egg products capable of use as human food shall be imported into the United States unless they were processed under an approved continuous inspection system of the government of the foreign country of origin or subdivision thereof and are labeled and packaged in accordance with, and otherwise comply with the standards of this Act and regulations issued thereunder applicable to such articles within the United States. All such imported articles shall upon entry into the United States be deemed and treated as domestic articles subject to the other provisions of this Act: *Provided,* That they shall be labeled as required by such regulations for imported articles: *Provided further,* That nothing in this section shall apply to eggs or egg products purchased outside the United States by any individual for consumption by him and members of his household and his nonpaying guests and employees.

(b) The Secretary may prescribe the terms and conditions for the destruction of all such articles which are imported contrary to this section, unless (1) they are exported

by the consignee within the time fixed therefor by the Secretary or (2) in the case of articles which are not in compliance solely because of misbranding, such articles are brought into compliance with this Act under supervision of authorized representatives of the Secretary.

(c) All charges for storage, cartage, and labor with respect to any article which is imported contrary to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter imported under this Act by or for such owner or consignee.

(d) The importation of any article contrary to this section is prohibited.

REFUSAL OF INSPECTION

SEC. 18. The Secretary (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) may refuse to provide or may withdraw inspection service under this Act with respect to any plant if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this Act, because the applicant or recipient or anyone responsibly connected with the applicant or recipient has been convicted in any Federal or State court, within the previous ten years, of (1) any felony or more than

one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food, or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he is a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock, or employee in a managerial or executive capacity.

The determination and order of the Secretary with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the United States court of appeals for the circuit in which such applicant or recipient has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 204 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 194) shall be applicable to appeals taken under this section.

This section shall not affect in any way other provisions of this Act for refusal of inspection services.

ADMINISTRATIVE DETENTION

SEC. 19. Whenever any eggs or egg products subject to the Act, are found by any authorized representative of the Secretary upon any premises and there is reason to believe that they are or have been processed, bought, sold, possessed used, transported, or offered or received for sale or transportation in violation of this Act or that they are in any other way in violation of this Act, or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary, such articles may be detained by such representative for a reasonable period but not to exceed twenty days, pending action under section 20 of this Act or notification of any Federal, State, or other governmental authorities having jurisdiction over such articles and shall not be moved by any person from the place at which they are located when so detained until released by such representative. All official marks may be required by such representative to be removed from such articles before they are released unless it appears to the satisfaction of the Secretary that the articles are eligible to retain such marks.

JUDICIAL SEIZURE PROCEEDINGS

SEC. 20. (a) Any eggs or egg products that are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation, in violation of this Act, or in any other way are in violation of this Act; and any restricted eggs, capable of use as human food, in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary shall be liable to be proceeded against and seized and condemned, at any time, on a complaint in any United States district court or other proper court as provided in section 21 of this Act within the jurisdiction of which the articles are found. If the articles are condemned they shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the articles shall not be sold contrary to the provision of this Act, the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which they are sold: *Provided*, That upon the execution and delivery of a good and sufficient bond conditioned that the articles shall not be sold or otherwise disposed of contrary to the provisions of this Act, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging

and Labeling Act, or the laws of the jurisdiction in which disposal is made, the court may direct that they be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the articles and they are released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant thereof. The proceedings in such cases shall conform, as nearly as may be, to the supplemental rules for certain admiralty and maritime claims, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Act, or other laws.

JURISDICTION

SEC. 21. The United States district courts and the District Court of the Virgin Islands are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act, and shall have jurisdiction in all other cases, arising under this Act, except as provided in section 18 of this Act. All proceedings for the enforcement or to re-

strain violations of this Act shall be by and in the name of the United States. Subpenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

APPLICABILITY OF OTHER ACTS

SEC. 22. For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Federal Trade Commission Act, as amended (38 Stat. 721–723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraphs (c) through (h) of section 6 and the last paragraph of section 9), and the provisions of subsection 409 (l) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409 (l)), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred by said sections 9 and 10 of the Federal Trade Commission Act, as amended, on the district courts of the United States may be exercised for the purposes of this Act by any court designated in section 21 of this Act.

RELATION TO OTHER AUTHORITIES

SEC. 23. (a) Requirements within the scope of this Act with respect to premises, facilities, and operations of any official plant which are in addition to or different than those made under this Act may not be imposed by any State or local jurisdiction except that any such jurisdiction may impose recordkeeping and other requirements within the scope of section 11 of this Act, if consistent therewith, with respect to any such plant.

(b) For eggs which have moved or are moving in interstate or foreign commerce, (1) no State or local jurisdiction may require the use of standards of quality, condition, weight, quantity, or grade which are in addition to or different from the official Federal standards, and (2) no State or local jurisdiction other than those in noncontiguous areas of the United States may require labeling to show the State or other geographical area of production or origin: *Provided, however*, That this shall not preclude a State from requiring that the name, address, and license number of the person processing or packaging eggs, be shown on each container. Labeling, packaging, or ingredient requirements, in addition to or different than those made under this Act, the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, may not be imposed by any State or local jurisdiction, with respect to egg products processed at any

official plant in accordance with the requirements under such Acts. However, any State or local jurisdiction may exercise jurisdiction with respect to eggs and egg products for the purpose of preventing the distribution for human food purposes of any such articles which are outside of such a plant and are in violation of any of said Federal Acts or any State or local law consistent therewith. Otherwise the provisions of this Act shall not invalidate any law or other provisions of any State or other jurisdiction in the absence of a conflict with this Act.

(c) The provisions of this Act shall not affect the applicability of the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act or other Federal laws to eggs, egg products, or other food products or diminish any authority conferred on the Secretary of Health, Education, and Welfare or other Federal officials by such other laws, except that the Secretary of Agriculture shall have exclusive jurisdiction to regulate official plants processing egg products and operations thereof as to all matters within the scope of this Act.

(d) The detainer authority conferred on representatives of the Secretary of Agriculture by section 19 of this Act shall also apply to any authorized representative of the Secretary of Health, Education, and Welfare for the purposes of paragraph (d) of section 5 of this Act, with

respect to any eggs or egg products that are outside any plant processing egg products.

COST OF INSPECTION

SEC. 24. (a) The cost of inspection rendered under the requirements of this Act, and other costs of administration of this Act, shall be borne by the United States, except that the cost of overtime and holiday work performed in official plants subject to the provisions of this Act at such rates as the Secretary may determine shall be borne by such official plants. Sums received by the Secretary from official plants under this section shall be available without fiscal year limitation to carry out the purposes of this Act.

(b) The term "holiday" for the purposes of assessment or reimbursement of the cost of inspection performed under this Act, the Wholesome Poultry Products Act, and the Wholesome Meat Act shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, title 5 of the United States Code.

SMALL BUSINESS ASSISTANCE

SEC. 25. (a) Section 7 (b) of the Small Business Act is amended—

(1) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and "; and

(2) by adding after paragraph (4) a new paragraph as follows:

"(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed by the Egg Products Inspection Act, the Wholesome Poultry and Poultry Products Act, and the Wholesome Meat Act of 1967 or State laws enacted in conformity therewith, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The third sentence of section 7(b) of such Act is amended by inserting "or (5)" after "paragraph (3)".

(c) Section 4(c)(1) of the Small Business Act is amended by inserting "7(b)(5)", after "7(b)(4),".

ANNUAL REPORT

SEC. 26. (a) Not later than March 1 of each year following the enactment of this Act the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate a comprehensive and detailed written report with respect to—

(1) the processing, storage, handling, and distribution of eggs and egg products subject to the provisions of this title; the inspection of establishments operated in connection therewith; the effectiveness of the operation of the inspection, including the effectiveness of the operations of State egg inspection programs; and recommendations for legislation to improve such program; and

(2) the administration of section 17 of this Act (relating to imports) during the immediately preceding calendar year, including but not limited to—

(A) a certification by the Secretary that foreign plants exporting eggs or egg products to the United States have complied with requirements of this Act and regulations issued thereunder;

(B) the names and locations of plants authorized or permitted to export eggs or egg products to the United States;

(C) the number of inspectors employed by the Department of Agriculture in the calendar year concerned who were assigned to inspect plants referred to in paragraph (B) hereof and the frequency with which each such plant was inspected by such inspectors;

(D) the number of inspectors that were li-

censed by each country from which any imports were received and that were assigned, during the calendar year concerned, to inspect such imports and the facilities in which such imports were handled; and the frequency and effectiveness of such inspections;

(E) the total volume of eggs and egg products which was imported into the United States during the calendar year concerned from each country, including a separate itemization of the volume of each major category of such imports from each country during such year, and a detailed report of rejections of plants and products because of failure to meet appropriate standards prescribed by this title; and

(F) recommendations for legislation to improve such program.

APPROPRIATIONS

SEC. 27. Such sums as are necessary to carry out the provisions of this Act are hereby authorized to be appropriated.

SEPARABILITY OF PROVISIONS

SEC. 28. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of

such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DAY

SEC. 29. The provisions of this Act with respect to egg products shall take effect six months after enactment. Otherwise, this Act shall take effect eighteen months after enactment.

Passed the House of Representatives December 11, 1970.

Attest: W. PAT JENNINGS,

Clerk.

91ST CONGRESS
2D SESSION

H. R. 19888

AN ACT

To provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act, and for other purposes.

DECEMBER 14, 1970
Received; read twice, considered, read the third time, and passed

a
b

Public Law 91-597
91st Congress, H. R. 19888
December 29, 1970

An Act

To provide for the inspection of certain egg products by the United States Department of Agriculture; restriction on the disposition of certain qualities of eggs; uniformity of standards for eggs in interstate or foreign commerce; and cooperation with State agencies in administration of this Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Egg Products Inspection Act". Egg Products Inspection Act.

LEGISLATIVE FINDING

SEC. 2. Eggs and egg products are an important source of the Nation's total supply of food, and are used in food in various forms. They are consumed throughout the Nation and the major portion thereof moves in interstate or foreign commerce. It is essential, in the public interest, that the health and welfare of consumers be protected by the adoption of measures prescribed herein for assuring that eggs and egg products distributed to them and used in products consumed by them are wholesome, otherwise not adulterated, and properly labeled and packaged. Lack of effective regulation for the handling or disposition of unwholesome, otherwise adulterated, or improperly labeled or packaged egg products and certain qualities of eggs is injurious to the public welfare and destroys markets for wholesome, not adulterated, and properly labeled and packaged eggs and egg products and results in sundry losses to producers and processors, as well as injury to consumers. Unwholesome, otherwise adulterated, or improperly labeled or packaged products can be sold at lower prices and compete unfairly with the wholesome, not adulterated, and properly labeled and packaged products, to the detriment of consumers and the public generally. It is hereby found that all egg products and the qualities of eggs which are regulated under this Act are either in interstate or foreign commerce, or substantially affect such commerce, and that regulation by the Secretary of Agriculture and the Secretary of Health, Education, and Welfare, and cooperation by the States and other jurisdictions, as contemplated by this Act, are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers.

84 STAT. 1620
84 STAT. 1621

DECLARATION OF POLICY

SEC. 3. It is hereby declared to be the policy of the Congress to provide for the inspection of certain egg products, restrictions upon the disposition of certain qualities of eggs, and uniformity of standards for eggs, and otherwise regulate the processing and distribution of eggs and egg products as hereinafter prescribed to prevent the movement or sale for human food, of eggs and egg products which are adulterated or misbranded or otherwise in violation of this Act.

DEFINITIONS

SEC. 4. For purposes of this Act—

(a) The term "adulterated" applies to any egg or egg product under one or more of the following circumstances—

(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the

substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2) (A) if it bears or contains any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;

(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

68 Stat. 511.
21 USC 346a.

(C) if it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

72 Stat. 1785.
21 USC 348.

(D) if it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug and Cosmetic Act: *Provided*. That an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the Secretary in official plants;

74 Stat. 399.
21 USC 376.

(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(4) if it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(5) if it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

84 STAT. 1621

84 STAT. 1622

(7) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or

(8) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(b) The term "capable of use as human food" shall apply to any egg or egg product, unless it is denatured, or otherwise identified, as required by regulations prescribed by the Secretary to deter its use as human food.

(c) The term "commerce" means interstate, foreign, or intrastate commerce.

(d) The term "container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(1) The term "immediate container" means any consumer package; or any other container in which egg products, not consumer packaged, are packed.

(2) The term "shipping container" means any container used in packaging a product packed in an immediate container.

(e) The term "egg handler" means any person who engages in any business in commerce which involves buying or selling any eggs (as

a poultry producer or otherwise), or processing any egg products, or otherwise using any eggs in the preparation of human food.

(f) The term "egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion or historically have not been, in the judgment of the Secretary, considered by consumers as products of the egg food industry, and which may be exempted by the Secretary under such conditions as he may prescribe to assure that the egg ingredients are not adulterated and such products are not represented as egg products.

(g) The term "egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea.

(1) The term "check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(2) The term "clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(3) The term "dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(4) The term "incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable. 84 STAT. 1622

(5) The term "inedible" means eggs of the following descriptions: 84 STAT. 1623 black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(6) The term "leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(7) The term "loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(8) The term "restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(h) The term "Fair Packaging and Labeling Act" means the Act so entitled, approved November 3, 1966 (80 Stat. 1296), and Acts amendatory thereof or supplementary thereto. 15 USC 1451 note.

(i) The term "Federal Food, Drug, and Cosmetic Act" means the Act so entitled, approved June 25, 1938 (52 Stat. 1040), and Acts amendatory thereof or supplementary thereto. 21 USC 301.

(j) The term "inspection" means the application of such inspection methods and techniques as are deemed necessary by the responsible Secretary to carry out the provisions of this Act.

(k) The term "inspector" means:

(1) any employee or official of the United States Government authorized to inspect eggs or egg products under the authority of this Act; or

(2) Any employee or official of the government of any State or local jurisdiction authorized by the Secretary to inspect eggs or egg products under the authority of this Act, under an agreement entered into between the Secretary and the appropriate State or other agency.

(l) The term "misbranded" shall apply to egg products which are not labeled and packaged in accordance with the requirements prescribed by regulations of the Secretary under section 7 of this Act. Post, p. 1625.

(m) The term "official certificate" means any certificate prescribed by regulations of the Secretary for issuance by an inspector or other person performing official functions under this Act.

(n) The term "official device" means any device prescribed or authorized by the Secretary for use in applying any official mark.

(o) The term "official inspection legend" means any symbol prescribed by regulations of the Secretary showing that egg products were inspected in accordance with this Act.

(p) The term "official mark" means the official inspection legend or any other symbol prescribed by regulations of the Secretary to identify the status of any article under this Act.

84 STAT. 1623

84 STAT. 1624

(q) The term "official plant" means any plant, as determined by the Secretary, at which inspection of the processing of egg products is maintained by the Department of Agriculture under the authority of this Act.

(r) The term "official standards" means the standards of quality, grades, and weight classes for eggs, in effect upon the effective date of this Act, or as thereafter amended, under the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 7 U.S.C. 1621 et seq.).

(s) The term "pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful viable micro-organisms by such processes as may be prescribed by regulations of the Secretary.

(t) The term "person" means any individual, partnership, corporation, association, or other business unit.

(u) The terms "pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" shall have the same meaning for purposes of this Act as under the Federal Food, Drug, and Cosmetic Act.

52 Stat. 1040.
21 USC 301.

(v) The term "plant" means any place of business where egg products are processed.

(w) The term "processing" means manufacturing egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(x) The term "Secretary" means the Secretary of Agriculture or his delegate.

(y) The term "State" means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and the District of Columbia.

(z) The term "United States" means the States.

INSPECTION, REINSPECTION, CONDEMNATION

SEC. 5. (a) For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any egg product which is capable of use as human food and is misbranded or adulterated, the Secretary shall, whenever processing operations are being conducted, cause continuous inspection to be made, in accordance with the regulations promulgated under this Act, of the processing of egg products, in each plant processing egg products for commerce, unless exempted under section 15 of this Act. Without restricting the application of the preceding sentence to other kinds of establishments within its provisions, any food manufacturing establishment, institution, or restaurant which uses any eggs that do not meet the requirements of paragraph (a)(1) of section 15 of this Act in the preparation of any articles for human food shall be deemed to be a plant processing egg products, with respect to such operations.

(b) The Secretary, at any time, shall cause such retention, segregation, and reinspection as he deems necessary of eggs and egg products capable of use as human food in each official plant.

(c) Eggs and egg products found to be adulterated at official plants shall be condemned and, if no appeal be taken from such determination of condemnation, such articles shall be destroyed for human food purposes under the supervision of an inspector: *Provided*, That articles which may by reprocessing be made not adulterated need not be condemned and destroyed if so reprocessed under the supervision of an inspector and thereafter found to be not adulterated. If an appeal be taken from such determination, the eggs or egg products shall be appropriately marked and segregated pending completion of an appeal inspection, which appeal shall be at the cost of the appellant if the Secretary determines that the appeal is frivolous. If the determination of condemnation is sustained, the eggs or egg products shall be destroyed for human food purposes under the supervision of an inspector.

(d) The Secretary shall cause such other inspections to be made of the business premises, facilities, inventory, operations, and records of egg handlers, and the records and inventory of other persons required to keep records under section 11 of this Act, as he deems appropriate (and in the case of shell egg packers, packing eggs for the ultimate consumer, at least once each calendar quarter) to assure that only eggs fit for human food are used for such purpose, and otherwise to assure compliance by egg handlers and other persons with the requirements of section 8 of this Act, except that the Secretary of Health, Education, and Welfare shall cause such inspections to be made as he deems appropriate to assure compliance with such requirements at food manufacturing establishments, institutions, and restaurants, other than plants processing egg products. Representatives of said Secretaries shall be afforded access to all such places of business for purposes of making the inspections provided for in this Act.

SANITATION, FACILITIES, AND PRACTICES

SEC. 6. (a) Each official plant shall be operated in accordance with such sanitary practices and shall have such premises, facilities, and equipment as are required by regulations promulgated by the Secretary to effectuate the purposes of this Act, including requirements for segregation and disposition of restricted eggs.

(b) The Secretary shall refuse to render inspection to any plant whose premises, facilities, or equipment, or the operation thereof, fail to meet the requirements of this section.

PASTEURIZATION AND LABELING OF EGG PRODUCTS AT OFFICIAL PLANTS

SEC. 7. (a) Egg products inspected at any official plant under the authority of this Act and found to be not adulterated shall be pasteurized before they leave the official plant, except as otherwise permitted by regulations of the Secretary, and shall at the time they leave the official plant, bear in distinctly legible form on their shipping containers or immediate containers, or both, when required by regulations of the Secretary, the official inspection legend and official plant number, of the plant where the products were processed, and such other information as the Secretary may require by regulations to describe the products adequately and to assure that they will not have false or misleading labeling.

(b) No labeling or container shall be used for egg products at official plants if it is false or misleading or has not been approved as required by the regulations of the Secretary. If the Secretary has reason to believe that any labeling or the size or form of any container in use or proposed for use with respect to egg products at any official

plant is false or misleading in any particular, he may direct that such use be withheld unless the labeling or container is modified in such manner as he may prescribe so that it will not be false or misleading. If the person using or proposing to use the labeling or container does not accept the determination of the Secretary, such person may request a hearing, but the use of the labeling or container shall, if the Secretary so directs, be withheld pending hearing and final determination by the Secretary. Any such determination by the Secretary shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person adversely affected thereby appeals to the United States court of appeals for the circuit in which such person has its principal place of business or to the United States Court of Appeals for the District of Columbia Circuit. The provisions of section 204 of the Packers and Stockyards Act, 1921 (42 Stat. 162, as amended; 7 U.S.C. 194), shall be applicable to appeals taken under this section.

72 Stat. 944.

PROHIBITED ACTS

SEC. 8. (a)(1) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in any business in commerce any restricted eggs, capable of use as human food, except as authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(2) No egg handler shall possess with intent to use, or use, any restricted eggs in the preparation of human food for commerce except that such eggs may be so possessed and used when authorized by regulations of the Secretary under such conditions as he may prescribe to assure that only eggs fit for human food are used for such purpose.

(b)(1) No person shall process any egg products for commerce at any plant except in compliance with the requirements of this Act.

(2) No person shall buy, sell, or transport, or offer to buy or sell, or offer or receive for transportation, in commerce any egg products required to be inspected under this Act unless they have been so inspected and are labeled and packaged in accordance with the requirements of section 7 of this Act.

(3) No operator of any official plant shall fail to comply with any requirements of paragraph (a) of section 6 of this Act or the regulations thereunder.

(4) No operator of any official plant shall allow any egg products to be moved from such plant if they are adulterated or misbranded and capable of use as human food.

(c) No person shall violate any provision of section 10, 11, or 17 of this Act.

(d) No person shall—

(1) manufacture, cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark or simulation, or any form of official certificate or simulation thereof, except as authorized by the Secretary;

(2) forge or alter any official device, mark, or certificate;

(3) without authorization from the Secretary, use any official device, mark, or certificate, or simulation thereof, or detach, deface, or destroy any official device or mark; or use any labeling or container ordered to be withheld from use under section 7 of this Act after final judicial affirmance of such order or expiration of the time for appeal if no appeal is taken under said section;

(4) contrary to the regulations prescribed by the Secretary, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(5) knowingly possess, without promptly notifying the Secretary or his representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label, or any eggs or egg products bearing any counterfeit, simulated, forged, or improperly altered official mark;

(6) knowingly make any false statement in any shipper's certificate or other nonofficial or official certificate provided for in the regulations prescribed by the Secretary;

(7) knowingly represent that any article has been inspected or exempted, under this Act, when, in fact, it has, respectively, not been so inspected or exempted; and

(8) refuse access, at any reasonable time, to any representative of the Secretary of Agriculture or the Secretary of Health, Education, and Welfare, to any plant or other place of business subject to inspection under any provisions of this Act.

(e) No person, while an official or employee of the United States Government or any State or local governmental agency, or thereafter, shall use to his own advantage, or reveal other than to the authorized representatives of the United States Government or any State or other government in their official capacity, or as ordered by a court in a judicial proceeding, any information acquired under the authority of this Act concerning any matter which is entitled to protection as a trade secret.

FEDERAL AND STATE COOPERATION

SEC. 9. The Secretary shall, whenever he determines that it would effectuate the purposes of this Act, cooperate with appropriate State and other governmental agencies, in carrying out any provisions of this Act. In carrying out the provisions of this Act, the Secretary may conduct such examinations, investigations, and inspections as he determines practicable through any officer or employee of any such agency commissioned by him for such purpose. The Secretary shall reimburse the States and other agencies for the costs incurred by them in such cooperative programs.

EGGS AND EGG PRODUCTS NOT INTENDED FOR HUMAN FOOD

SEC. 10. Inspection shall not be provided under this Act at any plant for the processing of any egg products which are not intended for use as human food, but such articles, prior to their offer for sale or transportation in commerce, shall be denatured or otherwise identified as prescribed by regulations of the Secretary to deter their use for human food. No person shall buy, sell, or transport or offer to buy or sell, or offer or receive for transportation, in commerce, any restricted eggs or egg products which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Secretary.

RECORD AND RELATED REQUIREMENTS FOR PROCESSORS OF EGGS AND EGG PRODUCTS AND RELATED INDUSTRIES

SEC. 11. For the purpose of enforcing the provisions of this Act and the regulations promulgated thereunder, all persons engaged in the business of transporting, shipping, or receiving any eggs or egg products in commerce or holding such articles so received, and all egg handlers, shall maintain such records showing, for such time and in

such form and manner, as the Secretary of Agriculture or the Secretary of Health, Education, and Welfare may prescribe, to the extent that they are concerned therewith, the receipt, delivery, sale, movement, and disposition of all eggs and egg products handled by them, and shall, upon the request of a duly authorized representative of either of said Secretaries, permit him at reasonable times to have access to and to copy all such records.

PENALTIES

SEC. 12. (a) Any person who commits any offense prohibited by section 8 of this Act shall upon conviction be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both such imprisonment and fine, but if such violation involves intent to defraud, or any distribution or attempted distribution of any article that is known to be adulterated (except as defined in section 4(a)(8) of this Act), such person shall be subject to imprisonment for not more than three years or a fine of not more than $10,000, or both. When construing or enforcing the provisions of section 8, the act, omission, or failure of any person acting for or employed by any individual, partnership, corporation, or association within the scope of his employment or office shall in every case be deemed the act, omission, or failure of such individual, partnership, corporation, or association, as well as of such person.

(b) No carrier or warehouseman shall be subject to the penalties of this Act, other than the penalties for violation of section 11 of this Act or paragraph (c) of this section 12, by reason of his receipt, carriage, holding, or delivery, in the usual course of business, as a carrier or warehouseman of eggs or egg products owned by another person unless the carrier or warehouseman has knowledge, or is in possession of facts which would cause a reasonable person to believe that such eggs or egg products were not eligible for transportation under, or were otherwise in violation of, this Act, or unless the carrier or warehouseman refuses to furnish on request of a representative of the Secretary the name and address of the person from whom he received such eggs or egg products and copies of all documents, if there be any, pertaining to the delivery of the eggs or egg products to, or by, such carrier or warehouseman.

(c) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this Act shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever, in the commission of any such act, uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this Act shall be punished as provided under sections 1111 and 1112 of title 18, United States Code.

62 Stat. 756.

REPORTING OF VIOLATIONS

SEC. 13. Before any violation of this Act is reported by the Secretary of Agriculture or Secretary of Health, Education, and Welfare to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding. Nothing in this Act shall be construed as requiring the Secretary of Agriculture or Secretary of Health, Education, and Welfare

to report for criminal prosecution violations of this Act whenever he believes that the public interest will be adequately served and compliance with the Act obtained by a suitable written notice of warning.

REGULATIONS AND ADMINISTRATION

SEC. 14. The Secretary shall promulgate such rules and regulations as he deems necessary to carry out the purposes or provisions of this Act, and shall be responsible for the administration and enforcement of this Act except as otherwise provided in paragraph (d) of section 5 of this Act.

EXEMPTIONS

SEC. 15. (a) The Secretary may, by regulation and under such conditions and procedures as he may prescribe, exempt from specific provisions of this Act—

(1) the sale, transportation, possession, or use of eggs which contain no more restricted eggs than are allowed by the tolerance in the official standards of United States consumer grades for shell eggs;

(2) the processing of egg products at any plant where the facilities and operating procedures meet such sanitary standards as may be prescribed by the Secretary, and where the eggs received or used in the manufacture of egg products contain no more restricted eggs than are allowed by the official standards of United States consumer grades for shell eggs, and the egg products processed at such plant;

(3) the sale of eggs by any poultry producer from his own flocks directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(4) the processing of egg products by any poultry producer from eggs of his own flocks' production for sale of such products directly to a household consumer exclusively for use by such consumer and members of his household and his nonpaying guests and employees, and the egg products so processed when handled in accordance with this paragraph;

(5) the sale of eggs by shell egg packers on his own premises directly to household consumers for use by such consumer and members of his household and his nonpaying guests and employees, and the transportation, possession, and use of such eggs in accordance with this paragraph;

(6) for such period of time (not to exceed two years) during the initiation of operations under this Act as the Secretary determines that it is impracticable to provide inspection, the processing of egg products at any class of plants and the egg products processed at such plants; and

(7) the sale of eggs by any egg producer with an annual egg production from a flock of three thousand or less hens.

(b) The Secretary may immediately suspend or terminate any exemption under paragraph (a) (2) or (6) of this section at any time with respect to any person, if the conditions of exemption prescribed by this section or the regulations of the Secretary are not being met. The Secretary may modify or revoke any regulation granting exemption under this Act whenever he deems such action appropriate to effectuate the purposes of this Act.

ENTRY OF MATERIALS INTO OFFICIAL PLANTS

SEC. 16. The Secretary may limit the entry of eggs and egg products and other materials into official plants under such conditions as he may prescribe to assure that allowing the entry of such articles into such plants will be consistent with the purposes of this Act.

IMPORTS

SEC. 17. (a) No restricted eggs capable of use as human food shall be imported into the United States except as authorized by regulations of the Secretary. No egg products capable of use as human food shall be imported into the United States unless they were processed under an approved continuous inspection system of the government of the foreign country of origin or subdivision thereof and are labeled and packaged in accordance with, and otherwise comply with the standards of this Act and regulations issued thereunder applicable to such articles within the United States. All such imported articles shall upon entry into the United States be deemed and treated as domestic articles subject to the other provisions of this Act: *Provided*, That they shall be labeled as required by such regulations for imported articles: *Provided further*, That nothing in this section shall apply to eggs or egg products purchased outside the United States by any individual for consumption by him and members of his household and his nonpaying guests and employees.

(b) The Secretary may prescribe the terms and conditions for the destruction of all such articles which are imported contrary to this section, unless (1) they are exported by the consignee within the time fixed therefor by the Secretary or (2) in the case of articles which are not in compliance solely because of misbranding, such articles are brought into compliance with this Act under supervision of authorized representatives of the Secretary.

(c) All charges for storage, cartage, and labor with respect to any article which is imported contrary to this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter imported under this Act by or for such owner or consignee.

(d) The importation of any article contrary to this section is prohibited.

REFUSAL OF INSPECTION

SEC. 18. The Secretary (for such period, or indefinitely, as he deems necessary to effectuate the purposes of this Act) may refuse to provide or may withdraw inspection service under this Act with respect to any plant if he determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, such service, that such applicant or recipient is unfit to engage in any business requiring inspection under this Act, because the applicant or recipient or anyone responsibly connected with the applicant or recipient has been convicted in any Federal or State court, within the previous ten years, of (1) any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food or fraud in connection with transactions in food, or (2) any felony, involving fraud, bribery, extortion, or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.

For the purpose of this section, a person shall be deemed to be responsibly connected with the business if he is a partner, officer, director, holder, or owner of 10 per centum or more of its voting stock, or employee in a managerial or executive capacity.

The determination and order of the Secretary with respect thereto under this section shall be final and conclusive unless the affected applicant for, or recipient of, inspection service files application for judicial review within thirty days after the effective date of such order in the United States court of appeals for the circuit in which such applicant or recipient has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Judicial review of any such order shall be upon the record upon which the determination and order are based. The provisions of section 204 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 194) shall be applicable to appeals taken under this section. Judicial review. 42 Stat. 162; 72 Stat. 944.

This section shall not affect in any way other provisions of this Act for refusal of inspection services.

ADMINISTRATIVE DETENTION

SEC. 19. Whenever any eggs or egg products subject to the Act, are found by any authorized representative of the Secretary upon any premises and there is reason to believe that they are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation in violation of this Act or that they are in any other way in violation of this Act, or whenever any restricted eggs capable of use as human food are found by such a representative in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary, such articles may be detained by such representative for a reasonable period but not to exceed twenty days, pending action under section 20 of this Act or notification of any Federal, State, or other governmental authorities having jurisdiction over such articles and shall not be moved by any person from the place at which they are located when so detained until released by such representative. All official marks may be required by such representative to be removed from such articles before they are released unless it appears to the satisfaction of the Secretary that the articles are eligible to retain such marks.

JUDICIAL SEIZURE PROCEEDINGS

SEC. 20. (a) Any eggs or egg products that are or have been processed, bought, sold, possessed, used, transported, or offered or received for sale or transportation, in violation of this Act, or in any other way are in violation of this Act; and any restricted eggs, capable of use as human food, in the possession of any person not authorized to acquire such eggs under the regulations of the Secretary shall be liable to be proceeded against and seized and condemned, at any time, on a complaint in any United States district court or other proper court as provided in section 21 of this Act within the jurisdiction of which the articles are found. If the articles are condemned they shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs and fees, and storage and other proper expenses, shall be paid into the Treasury of the United States, but the articles shall not be sold contrary to the provision of this Act, the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which they are sold: *Provided*, That upon the execution and delivery of a good and sufficient bond conditioned that the articles shall not be sold or otherwise disposed of contrary 52 Stat. 1040. 21 USC 301. 80 Stat. 1296. 15 USC 1451 note.

52 Stat. 1040.
21 USC 301.
80 Stat. 1296.
15 USC 1451 note.

to the provisions of this Act, the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, or the laws of the jurisdiction in which disposal is made, the court may direct that they be delivered to the owner thereof subject to such supervision by authorized representatives of the Secretary as is necessary to insure compliance with the applicable laws. When a decree of condemnation is entered against the articles and they are released under bond, or destroyed, court costs and fees, and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant thereof. The proceedings in such cases shall conform, as nearly as may be, to the supplemental rules for certain admiralty and maritime claims, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

(b) The provisions of this section shall in no way derogate from authority for condemnation or seizure conferred by other provisions of this Act, or other laws.

JURISDICTION

SEC. 21. The United States district courts and the District Court of the Virgin Islands are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act, and shall have jurisdiction in all other cases, arising under this Act, except as provided in section 18 of this Act. All proceedings for the enforcement or to restrain violations of this Act shall be by and in the name of the United States. Subpenas for witnesses who are required to attend a court of the United States, in any district, may run into any other district in any such proceeding.

APPLICABILITY OF OTHER ACTS

SEC. 22. For the efficient administration and enforcement of this Act, the provisions (including penalties) of sections 6, 8, 9, and 10 of the Federal Trade Commission Act, as amended (38 Stat. 721–723, as amended; 15 U.S.C. 46, 48, 49, and 50) (except paragraphs (c) through (h) of section 6 and the last paragraph of section 9), and the provisions of subsection 409(l) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409(l)), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this Act and to any person with respect to whom such authority is exercised. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States, and the powers conferred by said sections 9 and 10 of the Federal Trade Commission Act, as amended, on the district courts of the United States may be exercised for the purposes of this Act by any court designated in section 21 of this Act.

66 Stat. 722.

RELATION TO OTHER AUTHORITIES

SEC. 23. (a) Requirements within the scope of this Act with respect to premises, facilities, and operations of any official plant which are in addition to or different than those made under this Act may not be imposed by any State or local jurisdiction except that any such jurisdiction may impose recordkeeping and other requirements within the scope of section 11 of this Act, if consistent therewith, with respect to any such plant.

(b) For eggs which have moved or are moving in interstate or foreign commerce, (1) no State or local jurisdiction may require the use of standards of quality, condition, weight, quantity, or grade which

are in addition to or different from the official Federal standards, and (2) no State or local jurisdiction other than those in noncontiguous areas of the United States may require labeling to show the State or other geographical area of production or origin: *Provided, however*, That this shall not preclude a State from requiring that the name, address, and license number of the person processing or packaging eggs, be shown on each container. Labeling, packaging, or ingredient requirements, in addition to or different than those made under this Act, the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, may not be imposed by any State or local jurisdiction, with respect to egg products processed at any official plant in accordance with the requirements under such Acts. However, any State or local jurisdiction may exercise jurisdiction with respect to eggs and egg products for the purpose of preventing the distribution for human food purposes of any such articles which are outside of such a plant and are in violation of any of said Federal Acts or any State or local law consistent therewith. Otherwise the provisions of this Act shall not invalidate any law or other provisions of any State or other jurisdiction in the absence of a conflict with this Act.

52 Stat. 1040.
21 USC 301.
80 Stat. 1296.
15 USC 1451 note.

(c) The provisions of this Act shall not affect the applicability of the Federal Food, Drug, and Cosmetic Act or the Fair Packaging and Labeling Act or other Federal laws to eggs, egg products, or other food products or diminish any authority conferred on the Secretary of Health, Education, and Welfare or other Federal officials by such other laws, except that the Secretary of Agriculture shall have exclusive jurisdiction to regulate official plants processing egg products and operations thereof as to all matters within the scope of this Act.

(d) The detainer authority conferred on representatives of the Secretary of Agriculture by section 19 of this Act shall also apply to any authorized representative of the Secretary of Health, Education, and Welfare for the purposes of paragraph (d) of section 5 of this Act, with respect to any eggs or egg products that are outside any plant processing egg products.

COST OF INSPECTION

SEC. 24. (a) The cost of inspection rendered under the requirements of this Act, and other costs of administration of this Act, shall be borne by the United States, except that the cost of overtime and holiday work performed in official plants subject to the provisions of this Act at such rates as the Secretary may determine shall be borne by such official plants. Sums received by the Secretary from official plants under this section shall be available without fiscal year limitation to carry out the purposes of this Act.

(b) The term "holiday" for the purposes of assessment or reimbursement of the cost of inspection performed under this Act, the Wholesome Poultry Products Act, and the Wholesome Meat Act shall mean the legal public holidays specified by the Congress in paragraph (a) of section 6103, title 5 of the United States Code.

"Holiday."

82 Stat. 791.
21 USC 451 note.
81 Stat. 584.
21 USC 601 note.

SMALL BUSINESS ASSISTANCE

SEC. 25. (a) Section 7(b) of the Small Business Act is amended—

(1) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(2) by adding after paragraph (4) a new paragraph as follows:

82 Stat. 250.
72 Stat. 389; 78 Stat. 7; 83 Stat. 802.
15 USC 636.

"(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator may determine to be necessary or appropriate to assist any small business concern in effecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed by the Egg Products Inspection Act, the Wholesome Poultry Products Act, and the Wholesome Meat Act of 1967 or State laws enacted in conformity therewith, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

Ante, p. 1620.
82 Stat. 791.
21 USC 451 note.
81 Stat. 584.
21 USC 601 note.

(b) The third sentence of section 7(b) of such Act is amended by inserting "or (5)" after "paragraph (3)".

(c) Section 4(c)(1) of the Small Business Act is amended by inserting "7(b)(5)", after "7(b)(4),".

72 Stat. 387; 75 Stat. 167.
15 USC 636.
80 Stat. 132; 83 Stat. 802.
15 USC 633.

ANNUAL REPORT

SEC. 26. (a) Not later than March 1 of each year following the enactment of this Act the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate a comprehensive and detailed written report with respect to—

(1) the processing, storage, handling, and distribution of eggs and egg products subject to the provisions of this title; the inspection of establishments operated in connection therewith; the effectiveness of the operation of the inspection, including the effectiveness of the operations of State egg inspection programs; and recommendations for legislation to improve such program; and

(2) the administration of section 17 of this Act (relating to imports) during the immediately preceding calendar year, including but not limited to—

(A) a certification by the Secretary that foreign plants exporting eggs or egg products to the United States have complied with requirements of this Act and regulations issued thereunder;

(B) the names and locations of plants authorized or permitted to export eggs or egg products to the United States;

(C) the number of inspectors employed by the Department of Agriculture in the calendar year concerned who were assigned to inspect plants referred to in paragraph (B) hereof and the frequency with which each such plant was inspected by such inspectors;

(D) the number of inspectors that were licensed by each country from which any imports were received and that were assigned, during the calendar year concerned, to inspect such imports and the facilities in which such imports were handled; and the frequency and effectiveness of such inspections;

(E) the total volume of eggs and egg products which was imported into the United States during the calendar year concerned from each country, including a separate itemization of the volume of each major category of such imports from each country during such year, and a detailed report of rejections of plants and products because of failure to meet appropriate standards prescribed by this title; and

(F) recommendations for legislation to improve such program.

APPROPRIATIONS

SEC. 27. Such sums as are necessary to carry out the provisions of this Act are hereby authorized to be appropriated.

SEPARABILITY OF PROVISIONS

SEC. 28. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DAY

SEC. 29. The provisions of this Act with respect to egg products shall take effect six months after enactment. Otherwise, this Act shall take effect eighteen months after enactment.

Approved December 29, 1970.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 91-1670 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 116 (1970):
Dec. 11, considered and passed House.
Dec. 14, considered and passed Senate.